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SENATE COMMITTEE REPORT

FURTHER

4/7/89

DATE TURNED INTO OFFICE

4/19/89

Mr. President:

CSHB 112 (FIN) am

FIN

Committee considered

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; etc. and recommended

- replace with 5 CS CSHB 112 (FIN)) same title
- or adopt CS) new title
- attached amendment(s) and technical title change (HB only)
- JFC letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero fiscal impact appropriation no FN

new updated previous DPS 4/12/89
 same as previous fiscal note(s) published DATED 98.94/12/89
DFWG 30.0 2/15/89
DNR 5 2/15/89

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

Paul A. Trimb (No Rec)

Rich [Signature] (No Rec)
 Chairman signature and recommendation

Committee Backup attached

John [Signature] Co-CHAIR
No-PASS

FISCAL NOTE

REQUEST:

Revision Date: 4/12/89
Title: Big game guiding and commercial hunting
Sponsor: House Resources
Requestor: Senate Finance

Agency Affected: Public Safety
BRU: Fish & Wildlife Protection
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 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: 4/12/89

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

Date: 4/12/89

Adopted

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						
TOTAL OPERATING		98.8	86.8	72.0	72.0	72.0

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 GF/PR		98.8	86.8	72.0	72.0	72.0
TOTAL		98.8	86.8	72.0	72.0	72.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See attached for explanation.

Changes in SCS for CSHB 112 (Fin) have no fiscal impact. This fiscal note is appropriate. *ll*

4/19/89

Prepared by: Jennifer Strickler, Administrative Officer

Phone: 465-2144

Division: Occupational Licensing

Date: April 12, 1989

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

Date: 4/12/89

Distribution (by preparer):

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

Adopted

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

SIAGE 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

SIAGE 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

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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 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 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(Fin)am 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(Fin)am 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
FY 90 Revenue	\$103.0

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
FY 91 Revenue	105.5

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
FY 92 Revenue	\$108.0

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
FY 93 Revenue	\$110.5

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: _____
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	75.8	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		5.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	33.0	90.0	72.0	60.7	60.7	60.7

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

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

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)

Changes in SCS CSHB 112 (Fin) have no fiscal impact. This fiscal note is appropriate. 4/19/89 *ml*

Adopted

FISCAL NOTE FOR HOUSE BILL 112
 Page 2 of 2

	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	10.3	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 CSHB 112 (RES)
PUBLISH DATE: HOUSE 3/15/89

FISCAL NOTE

REQUEST:

Revision Date: 15-Feb-89
Title: An Act relating to big game hunting and regulation of commercial services.
Sponsor: House Resources
Requestor: House Resources

Agency Affected: Natural Resources
BRU: Management and Administration
Components: Commissioners Office

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						
---------	--	--	--	--	--	--

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.

Changes in SCS CSHB 112 (Fin) have no fiscal impact. This fiscal note is appropriate.

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)

Adopted

~~4/18/89~~

Original sponsor: Resources Committee

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 112 ()

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 *18: (13) part 125 air taxi certification*

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

1 license.

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

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

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

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

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

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

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

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

19 (C) field preparation of trophies;

20 (D) care of game meat;

21 (E) use of guide-outfitting gear;

22 (F) firearm safety;

23 (G) practical first aid; and

24 (H) booking and contracting hunts;

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

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

1 outfitting services; and

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

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

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

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

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

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

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

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

21 (1) the person

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

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

29 (2) the person

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

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

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

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

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

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

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

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

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

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

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

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

27 (5) is in sound physical condition; and

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

1 (b) An assistant guide-outfitter

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

3 (2) shall be employed by a guide-outfitter and under the
4 supervision of a guide-outfitter or class-A assistant guide-outfitter
5 at all times while the assistant guide-outfitter is in the field on
6 guide-outfitted hunts.

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

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

10 (2) pays the license fee;

11 (3) pays the commercial use permit fee;

12 (4) provides proof of

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

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

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

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

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

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

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

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

9 (4) proof of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (b) A commercial use permit may not be issued to a hunting club.
10 A hunting club may not provide other big game commercial services for
11 compensation.

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

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

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

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

29 ARTICLE 6. PENALTIES.

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

7 (1) written complaints concerning a licensee's guide-out-
8 fitting activities are filed with the board within a two-year period
9 by three or more of the licensee's clients from separate hunting
10 parties;

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

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

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

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

24 (2) violated a provision of a federal or state statute or
25 regulation relating to hunting or provision of big game commercial
26 services.

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

29 (1) does not meet the qualifications specified by statute

1 or regulation for the license held;

2 (2) is incompetent as a guide-outfitter, marine mammal
3 guide-outfitter, class-A assistant guide-outfitter, or assistant
4 guide-outfitter; or

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

8 (A) waste of a wild food animal;

9 (B) hunting on the same day airborne; .

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

11 (D) hunting in an area closed by state or federal
12 regulation.

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

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

29 (1) written complaints concerning a licensee's or

1 permittee's activities are filed with the board within a two-year
2 period by three or more of the licensee's or permittee's clients from
3 separate hunting parties; or

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

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

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

16 (2) violated a provision of a federal or state statute or
17 regulation relating to hunting or provision of big game commercial
18 services.

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

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

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

29 (2) during the five years immediately preceding the hearing

1 has been convicted of a violation of a federal or state statute or
2 regulation prohibiting

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

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

16 Sec. 08.54.510. DISCIPLINE; GENERAL PROVISIONS. (a) A person
17 who is disciplined under AS 08.54.500 or 08.54.505 may not engage in
18 the provision of big game commercial services during the period of
19 license or permit revocation or other disciplinary action. A person
20 who is licensed under this chapter, or who holds a permit issued under
21 this chapter, may not hire a person whose license or permit to provide
22 big game commercial services is suspended or revoked under AS 08.54.-
23 500 or 08.54.505. A person whose license or permit is suspended or
24 revoked may not be employed by a person who is licensed or who holds a
25 permit under this chapter.

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

29 (c) A certified copy of a judgment of conviction of a licensee

1 or permittee for an offense is conclusive evidence of the commission
2 of that offense in a disciplinary proceeding instituted against the
3 licensee or permittee under AS 08.54.500 or 08.54.505 based on that
4 conviction, regardless of whether the conviction resulted from a plea
5 of nolo contendere or the conviction is under appeal, unless the
6 conviction is overturned on appeal.

7 (d) Within 30 days after conclusion of a hearing under AS 08.-
8 54.500 or 08.54.505, the board shall notify the complainant of the
9 results of the hearing, including written reasons justifying a deci-
10 sion not to take disciplinary action.

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

12 (1) person who is licensed or who holds a commercial use
13 permit under this chapter to knowingly fail to timely report to the
14 Department of Public Safety, division of fish and wildlife protection,
15 and in no event later than 30 days, a violation of a state fish, game,
16 or big game commercial services statute or regulation that the person
17 reasonably believes was committed by a client or an employee of the
18 person;

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

21 (A) commit or aid the commission of a violation of
22 this chapter, a regulation adopted under this chapter, or a state
23 fish or game statute or regulation; or

24 (B) permit the commission of a violation of this
25 chapter, a regulation adopted under this chapter, or a state fish
26 or game statute or regulation that the person knows or reasonably
27 believes is being or will be committed without

28 (i) attempting to prevent it, short of using
29 force; and

1 (ii) reporting it;

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

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

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

11 (6) person who holds any class of guide-outfitter license
12 to knowingly enter or remain on ~~state, federal, or~~ private land with-
13 out prior authorization during the course of providing guide-outfit-
14 ting services;

15 (7) person to knowingly guide-outfit without having a
16 current guide-outfitter, marine mammal guide-outfitter, class-A assis-
17 tant guide-outfitter, or assistant guide-outfitter license and hunting
18 license in actual possession;

19 (8) person without a current guide-outfitter or marine
20 mammal guide-outfitter license to knowingly advertise as or represent
21 to be a guide-outfitter;

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

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

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

29 (b) A person who commits an offense set out in (a)(1) - (6) of

1 this section is guilty of a misdemeanor and is punishable by a fine of
2 not more than \$30,000 or by imprisonment up to one year, or both.

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

5 (1) for a first offense, of a misdemeanor and is punishable
6 by a fine of not more than \$30,000 or by imprisonment up to one year,
7 or both;

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

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

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

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

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

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

27 Sec. 08.54.530. INJUNCTION AGAINST UNLAWFUL ACTION. When in the
28 judgment of the board a person has engaged in an act in violation of
29 AS 08.54.380(b), 08.54.390(b), 08.54.400(b), 08.54.510(a), and

1 08.54.520 or the regulations adopted under them, the board may apply
2 to the appropriate court for an order enjoining the action. Upon a
3 showing by the board that the person is engaging in the act, the court
4 shall grant injunctive relief or other appropriate order without bond.

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

12 ARTICLE 7. GENERAL PROVISIONS.

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

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

1 Sec. 08.54.590. DEFINITIONS. In this chapter

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

5 (2) "big game" means brown bear, grizzly bear, caribou,
6 moose, black bear, bison, Sitka blacktail deer, elk, mountain goat,
7 musk-ox, wolf, wolverine, mountain or Dall sheep;

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

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

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

15 (6) "compensation" means payment for services including
16 wages or other remuneration but not including reimbursement for actual
17 expenses incurred;

18 (7) "department" means the Department of Commerce and
19 Economic Development;

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

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

27 (10) "guide-outfit" means to provide, for compensation or
28 with the intent or with an agreement to receive compensation, big game
29 commercial hunting services in the field; "guide-outfit" includes

1 accompanying or being present with a big game hunter in the field
2 either personally or through an assistant; "guide-outfit" does not
3 include the provision of transportation to, from, or in the field if
4 the person providing the transportation and the person being trans-
5 ported do not stalk, pursue, track, kill, or attempt to kill big game
6 during the provision of transportation;

7 (11) "hunting club" means an organization that offers use of
8 property or services to individuals who pay a membership fee for the
9 privilege of using the property or services for hunting;

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

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

17 (A) on nonstop flights between state or federally
18 maintained airports; or

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

23 (14) "unethical activity" means

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

29 (B) making a guaranty that a species or certain number

1 of species of game will be taken on a hunt;

2 (C) engaging in unsafe or unsportsmanlike activities
3 that are detrimental to the game resources of the state, as
4 defined by regulations of the board, including violations of
5 state hunting or big game commercial services statutes or regu-
6 lations; or

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

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

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

15 (1) if the offense is a second felony conviction, two
16 years;

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

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

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

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

28 (a) It is unlawful for a nonresident to hunt, pursue, or take
29 brown bear, grizzly bear, mountain goat, [POLAR BEAR,] or sheep in

1 this state, unless personally accompanied by

2 (1) a person who is licensed as a guide-outfitter. [MASTER
3 GUIDE, REGISTERED GUIDE,] class-A assistant guide-outfitter. [GUIDE]
4 or assistant guide-outfitter [GUIDE] by the Big Game Commercial Ser-
5 vices [GUIDE] Board; or

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

7 (A) the spouse of the nonresident; or

8 (B) related to the nonresident, within and including
9 the second degree of kindred, by marriage or blood.

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

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

16 * Sec. 7. AS 16.05.407 is amended by adding a new subsection to read:

17 (f) An applicant for a nonresident hunt permit for the taking of
18 an animal specified in (a) of this section shall, if requested by the
19 department, first furnish to the department proof of prior authoriza-
20 tion to use state, federal, or private land where the permit hunt will
21 occur. The authorization shall be provided to the applicant by the
22 guide-outfitter with whom the applicant has contracted to guide-outfit
23 the permit hunt.

24 * Sec. 8. AS 16.05.408(a) is amended to read:

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

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

29 (2) to hunt, pursue, or take a big game animal as defined

1 by the Board of Game unless personally accompanied by a ~~guide-outfitter~~
2 ~~ter, a~~ [LICENSED MASTER GUIDE, REGISTERED GUIDE, OR] class-A assistant
3 ~~guide-outfitter, or an assistant guide-outfitter licensed~~ [GUIDE]
4 under AS 08.54.

5 * Sec. 9. AS 16.05.408 is amended by adding a new subsection to read:

6 (c) Before obtaining a nonresident hunt permit for the taking of
7 an animal specified in (a) of this section, a nonresident alien shall,
8 if requested by the department, first furnish to the department proof
9 of prior authorization to use state, federal, or private land where
10 the permit hunt will occur. The authorization shall be provided to
11 the nonresident alien by the guide-outfitter or marine mammal
12 guide-outfitter with whom the nonresident alien has contracted to
13 guide-outfit the permit hunt.

14 * Sec. 10. AS 39.50.200(b)(48) is amended to read:

15 (48) Big Game Commercial Services [GUIDE] Board AS 08.54.-
16 300 [(AS 08.54.010)]; and

17 * Sec. 11. AS 41.23.420(d) is amended to read:

18 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the
19 authority of

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

23 (2) the Department of Environmental Conservation under AS
24 46.03; or

25 (3) state agencies and municipalities under AS 44.19.145(a)-
26 (11) and AS 46.40.100.

27 * Sec. 12. AS 44.62.330(a)(35) is amended to read:

28 (35) Big Game Commercial Services [GUIDE LICENSING AND
29 CONTROL] Board

1 * Sec. 13. TRANSITION; GUIDE-OUTFITTER LICENSES. (a) Notwithstanding
2 the repeal of AS 08.54.010 - 08.54.240, all licenses issued under AS 08.-
3 54.010 - 08.54.240 are valid for the period for which the licenses were is-
4 sued.

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

7 (1) master guide license issued under former AS 08.54.100 and a
8 registered guide license issued under former AS 08.54.110 shall be con-
9 sidered a guide-outfitter license issued under AS 08.54.350;

10 (2) class-A assistant guide license issued under former AS 08.-
11 54.120 shall be considered a class-A assistant guide-outfitter license
12 issued under AS 08.54.380;

13 (3) an assistant guide license issued under former AS 08.54.140
14 shall be considered an assistant guide-outfitter license issued under
15 AS 08.54.390.

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

18 (1) a master guide shall receive a master guide-outfitter li-
19 cense if the person

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

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

24 (2) a registered guide shall receive a guide-outfitter license
25 if the person

26 (A) is in good standing at the time of issuance of the
27 license; and

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

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

3 (A) is in good standing at the time of issuance of the
4 license; and

5 (B) has paid the class-A assistant guide-outfitter license
6 fee;

7 (4) an assistant guide shall receive an assistant guide-out-
8 fitter license if the person

9 (A) is in good standing at the time of issuance of the
10 license; and

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

12 (d) Notwithstanding (c) of this section, the Department of Commerce
13 and Economic Development may issue a new license under AS 08.54.300 -
14 08.54.590, without an additional fee, to a person licensed under former
15 AS 08.54.010 - 08.54.240 before the next renewal period following the
16 effective date of this Act, if the person satisfies the requirements for
17 the license and the license is valid only for the same period for which the
18 replaced license was issued.

19 * Sec. 14. TRANSITION; OUTFITTERS. (a) Notwithstanding AS 08.54.350,
20 as enacted by sec. 3 of this Act, a natural person is entitled to receive a
21 guide-outfitter license if the person

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

24 (2) lawfully registered a camp, cabin, or lodge under AS 16.-
25 05.787 during 1988;

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

29 (4) passes the guide-outfitter examination administered by the

1 Big Game Commercial Services Board within two years after the effective
2 date of this Act;

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

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

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

14 (8) pays the guide-outfitter license fee and the commercial use
15 permit fee; and

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

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

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

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

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

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

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

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

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

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

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

18 (1) the date of issuance of a guide-outfitter license to the
19 person;

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

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

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

27 (f) A person who holds an interim outfitter license shall promptly
28 report to the Department of Public Safety, division of fish and wildlife
29 protection, but not later than 30 days after the violation, a violation of
SCS CSHB 112()

1 a state fish, game, or big game commercial services statute or regulation
2 that the person reasonably believes was committed by a client or employee
3 of the person.

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

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

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

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

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

22 (i) A person who

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

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

28 (j) In this section,

29 (1) "base camp" does not include spike camp, fly camp, or

1 overnight camp;

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

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

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

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

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

16 * Sec. 15. INITIAL APPOINTMENTS TO BIG GAME COMMERCIAL SERVICES BOARD.
17 Notwithstanding AS 08.54.300(b), as enacted by sec. 3 of this Act, the
18 initial appointments to the Big Game Commercial Services Board under

19 (1) AS 08.54.300(b)(1) may also be filled by the appointment of
20 a master guide or registered guide licensed under former AS 08.54.010 -
21 08.54.240 or a person who lawfully registered a camp, cabin, or lodge under
22 AS 16.05.787 during 1988 and legally engaged in the business of big game
23 outfitting in 1986, 1987, and 1988;

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

27 * Sec. 16. TRANSITION. Litigation, hearings, investigations, and other
28 proceedings pending under a law amended or repealed by this Act continue in
29 effect and may be continued and completed notwithstanding an amendment or

1 repeal provided for in this Act. Licenses, orders, and regulations issued
2 or adopted under authority of a law amended or repealed by this Act remain
3 in effect for the term issued or until revoked, vacated, or otherwise
4 modified under the provisions of this Act.

5 * Sec. 17. AS 08.54.010, 08.54.030, 08.54.035, 08.54.040, 08.54.045,
6 08.54.050, 08.54.060, 08.54.070, 08.54.100, 08.54.110, 08.54.120, 08.54.-
7 130, 08.54.140, 08.54.141, 08.54.150, 08.54.160, 08.54.170, 08.54.180,
8 08.54.186, 08.54.190, 08.54.195, 08.54.200, 08.54.210, 08.54.220, 08.54.-
9 230, 08.54.240; AS 16.05.370(b), 16.05.370(c), 16.05.407(e), 16.05.786, and
10 16.05.787 are repealed.

11 * Sec. 18. Sections 4, 6, 12, and 13, ch. 160, SLA 1988 are repealed.

12 * Sec. 19. AS 08.54.310(b)(1), as enacted by sec. 3 of this Act, takes
13 effect on the earlier of

14 (1) January 15, 1990; or

15 (2) the date of submission to the legislature of a recommenda-
16 tion by the Task Force on Guiding and Game for a resource-based management
17 system for allocating access to big game hunting opportunities among guide-
18 outfitters licensed under AS 08.54.

19 * Sec. 20. Except for AS 08.54.310(b)(1), as enacted by sec. 3 of this
20 Act, this Act takes effect immediately under AS 01.10.070(c).

Letter of Intent
For
SCS for CS HB 112 (Fin)

It is the intent of the legislature that the Big Game Commercial Services Board, with recommendations from the Task Force on Guiding and Game, established under provisions of SCS CS HB 112 (Finance) am shall consider the implications of the Owsichek decision issued by the Alaska Supreme Court on October 21, 1988, when establishing the resource-based management system for allocating big game hunting opportunities among guide-outfitters.

It is the intent of the legislature that any management system should:

1. Provide for the conservation of the game resources.
2. Provide for equal opportunity to all qualified guide-outfitters when access to hunting rights are assigned or reassigned.
3. Provide financial compensation to the state for the commercial harvest of Alaska's big game resources to be used for game management purposes.
4. Designate the Alaska Department of Fish and Game as the lead agency to formulate management areas.
5. Provide for long-term stability and economic health of any commercial industry utilizing big game resources.
6. Include recommendations from private and public land owners in order to ensure statewide applicability.

4/19/89 Alternative language
prepared by Mr.
Utermohle in lieu
of that 6-0401Ma
offered by Sen.
Utermohle
Binkley.

Approved by
Sen. Binkley
4/19/89
1:30pm

A M E N D M E N T

OFFERED IN THE HOUSE

TO: SCS CSHB 112 (Finance)

Page 5, line 22:

Delete "and"

Page 5, after line 24:

Insert new paragraphs to read:

"(13) has minimum comprehensive general liability insurance of \$300,000 per occurrence or \$500,000 per annual aggregate; and

(14) if the person personally pilots aircraft to transport clients during the provision of guide-outfitter services,

(A) has a commercial pilot's rating or a minimum of 250 hours of flying time in the state; and

(B) has aviation passenger liability insurance of \$100,000 per seat."

4/19/89
JBoz
Adopted

AMENDMENT TO HOUSE BILL 112

p. 5, line 25, insert:

¹⁴
~~(13)~~ and meets the following additional requirements if aircraft are used personally to transport clients as part of the operation of the business:

^{14-a} • has a commercial pilot's rating ~~and~~ or a minimum of 250 hours flying time in Alaska; and *(most pilot guides should easily meet these)*

⁽¹³⁾ • has minimum comprehensive general liability insurance of \$300,000 per occurrence or \$500,000 per annual aggregate; and *(this would cost about \$600-1000 per year)*

^{14-b} • has aviation passenger liability insurance of ^{100,000} \$150,000 per seat. *(you could also only require \$100,000 per seat insurance which would make it cheaper)*

The last two are required by the federal agencies, and most companies won't insure the pilot unless they are commercially rated or have hundreds of hours of flying time in Alaska anyway.

It's unclear how much of a financial burden the aircraft liability insurance requirement would be since it depends on the company, the guide's flying history, the type of equipment, etc. etc. It could be about \$2000 per plane or as high as \$5000 per plane. It would also be cheaper if you were only getting insurance for say three months of the year. Most air taxi operators pay \$8-10,000 for insurance for each of their planes.

*Retracted
already included
in draft
SES (Tic)*

Zhandt

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 112 (Finance) am

Page 25, after line 14:

Insert a new bill section to read:

"* Sec. 7. AS 16.05.407 is amended by adding a new subsection to read:

(f) An applicant for a nonresident hunt permit for the taking of an animal specified in (a) of this section shall, if requested by the department, first furnish to the department proof of prior authorization to use state, federal, or private land where the permit hunt will occur. The authorization shall be provided to the applicant by the guide-outfitter with whom the applicant has contracted to guide-outfit the permit hunt."

Renumber the following bill section accordingly.

Page 25, after line 23:

Insert a new bill section to read:

"* Sec. 9. AS 16.05.408 is amended by adding a new subsection to read:

(c) Before obtaining a nonresident hunt permit for the taking of an animal specified in (a) of this section, a nonresident alien shall, if requested by the department, first furnish to the department proof of prior authorization to use state, federal, or private land where the permit hunt will occur. The authorization shall be provided to the nonresident alien by the guide-outfitter or marine mammal guide-

outfitter with whom the nonresident alien has contracted to guide-
outfit the permit hunt."

Renumber the following bill sections accordingly.

Rep. NAVARRE
CC

LETTER OF INTENT
FOR
CS HB 112 (FINANCE) *am*

It is the intent of the legislature that the Big Game Commercial Services Board established under the provisions of CS HB 112 (Finance) shall consider the implications of the Owsichek decision issued by the Alaska Supreme Court on October 21, 1988 when establishing the resource-based management system for allocating big game hunting opportunities among guide-outfitters.

It is the intent of the legislature that the foremost purpose of any management system should be the conservation of game resources. Any system that places restrictions on free market competition between guides must be based on clear findings that such restrictions are needed to prevent harmful impacts on game populations that cannot be prevented through licensing requirements, bag limits, seasonal restrictions, or other traditional game management tools that are now available to the state.

Without a constitution^d amendment, a system would have to provide the broad access guaranteed by the "common use" clause of the constitution. The system would have to have access rights that are limited in duration, and the system would have to provide equal opportunity to all qualified guide-outfitters when these rights are reassigned. In order to prevent the development of non-uniform policies by various federal, state and private landowners, the system should have statewide applicability.

Mike Navarre

Adopted 35-2

Alaska State Legislature



SENATOR BETTYE FAHRENKAMP
CHAIRMAN, RESOURCES COMMITTEE
119 N. CUSHMAN STREET, SUITE 201
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
HOME (907) 456-2899

WHILE IN JUNEAU
PO. BOX V
JUNEAU, ALASKA 99811
CAPITOL, ROOM 125
OFFICE (907) 485-3834
HOME (907) 780-6027

Senate

TO: Senator Rick Uehling
Senator John Binkley
Co-Chairmen, Senate Finance Committee

FROM: Senator Bettye Fahrenkamp *BF*
Chair, Senate Resources Committee

RE: CS SB 140 (Res), and CS HB 112 (Fin) am

DATE: April 17, 1989

The CS SB 140 (Resources), and its companion bill, CS HB 112 (Fin) am, relating to the regulation of guide-outfitters and other commercial service providers for big game hunters, are currently before your committee. This memorandum is intended to outline for you the differences between the two bills. For your reference, I will refer to language changes in the CS HB 112 (Fin) am version of the bill.

CSHB112 (Fin) am:

Am #1
Page 13, Line 9 - 11, add "(b) A commercial use permit may not be issued to a hunting club. A hunting club may not provide other big game commercial services for compensation."

Am #2
Page 23, Line 6 - 8, add definition, "(11) hunting club means an organization that offers use of property or services to individuals who pay a membership fee for the privilege of using the property or services for hunting."

Page 25, Line 24, delete [Section 8 - Prohibitions].

Am #3
Page 14, Line 7, after (1) insert "written"
Page 14, Line 11, after (2) insert "written"
Page 15, Line 29, after (1) insert "written"

Am #4
Page 19, Line 12, 13, after "remain", deleted [unlawfully], and before "private", deleted "[redacted]".

Am #5
Page 22, Line 20, deleted the definition "[(8) 'enter or remain unlawfully' has the meaning given in AS 11.46.350 (a);]"

Am #6
Page 20, Line 1, and Page 20, Line 5 and 6, after "imprisonment", deleted [for not less than two months or more than], and , inserted "up to".

Am #7
Page 22, Line 4, Under (2), after "grizzly bear", Deleted "[polar bear]", on Line 6, after "Dall sheep", deleted "[and walrus]".

Page 24, Line 28, after "grizzly bear, mountain goat", deleted "[polar bear]".

Additionally, the House adopted a letter of intent which accompanies the bill (see attachment).

I would like to offer two amendments to HB 112(Fin) am, the house bill before you, as follows:

AMENDMENTS TO CS HB112 (Fin) am:

~~Amendment #1:~~

On Page 19, line 12, after "on":

Insert "~~state, federal, or~~".

This amendment will reinstate the language which was in the CS SB 140(Res). It was removed in the House Finance Committee because a member thought there may be an instance when a guide-outfitter might need to be on state or federal land and may not have acquired the proper permit. The Guide Board considers it to be unethical activity for a guide to be trespassing on land for which he does not hold a permit. This language is necessary for the purposes of consistency of policy.

~~Amendment #2:~~

Page 25, Lines 21 - 23:

Delete "~~guide-outfitter~~ [LICENSED MASTER GUIDE, REGISTERED GUIDE,] or class-A assistant "guide-outfitter"

Insert "guide-outfitter, a [LICENSED MASTER GUIDE, REGISTERED GUIDE, OR] class-A assistant guide-outfitter, or an assistant guide-outfitter"

This amendment is being proposed as a result of many letters I have received from guides in my district that are concerned about having employees who can operate to the fullest extent possible. They do not understand the distinction between having an assistant guide outfitter who is allowed to guide-outfit a non-resident vs. one who is allowed to guide-outfit a non-resident alien. Under current law an assistant guide is absent from the list of guide categories who can accompany a non-resident alien.

This statute was enacted to ensure that non-resident aliens were required to be accompanied by a licensed guide. While both a master and registered guide category were listed, assistant guide was not. I think that was an inadvertent omission which this amendment will correct.

Additionally, this bill will help to ensure, through examination and additional training requirements, an adequate competency level for assistant guide-outfitters.

A M E N D M E N T #1

OFFERED IN THE SENATE

TO: CSHB 112 (Finance) am

Page 19, line 12, after "on":

Insert "state, federal, or"

A M E N D M E N T # 2

OFFERED IN THE SENATE

TO: CSHB 112 (Finance) am

Page 25, lines 21 - 23:

Delete "guide-outfitter [LICENSED MASTER GUIDE, REGISTERED GUIDE,] or class-A assistant guide-outfitter"

Insert "guide-outfitter, a [LICENSED MASTER GUIDE, REGISTERED GUIDE, OR] class-A assistant guide-outfitter, or an assistant guide-outfitter"

LETTER OF INTENT
FOR
CS HB 112 (FINANCE)

It is the intent of the legislature that the Big Game Commercial Services Board established under the provisions of CS HB 112 (Finance) shall consider the implications of the Owsichek decision issued by the Alaska Supreme Court on October 21, 1988 when establishing the resource-based management system for allocating big game hunting opportunities among guide-outfitters.

It is the intent of the legislature that the foremost purpose of any management system should be the conservation of game resources. Any system that places restrictions on free market competition between guides must be based on clear findings that such restrictions are needed to prevent harmful impacts on game populations that cannot be prevented through licensing requirements, bag limits, seasonal restrictions, or other traditional game management tools that are now available to the state.

Without a constitution^l amendment, a system would have to provide the broad access guaranteed by the "common use" clause of the constitution. The system would have to have access rights that are limited in duration, and the system would have to provide equal opportunity to all qualified guide-outfitters when these rights are reassigned. In order to prevent the development of non-uniform policies by various federal, state and private landowners, the system should have statewide applicability.

ADOPTED BY
The House
4-6-89

Adopted 35-2



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

FOUCH V
JUNEAU, ALASKA 99811
(907) 485-3715

MEMORANDUM

TO: Senate Finance Members

FROM: Representative Curt Menard *Curt Menard*
Representative Cliff Davidson *Cliff Davidson*
Co-Chairman, House Resources Committee

RE: CS HB 112 (Finance) AM

DATE: April 12, 1989

CS HB 112 (Fin) am, relating to big game guiding, would sunset the existing Guide Board and create an expanded regulatory board whose powers would include those previously charged to the Guide Board. It would require the board to provide for registration of hunting camps and facilities, and would establish, in consultation with the Departments of Fish and Game or Natural Resources, a resource-based management system for allocating access to big game hunting opportunities among guide-outfitters. Further, the board has authority to establish the level of supervision that guide-outfitters provide to class-A guide-outfitters and assistant guide-outfitters under their employ.

Other provisions in the bill delineate the structure whereby all persons who directly or indirectly receive compensation from the commercial harvest of Alaska's big game would be required to obtain a permit or license. That big game resource belongs to all Alaskans, who value that resource to the extent that a "common use" of game provision is specified in Alaska's constitution.

Several provisions the bill would allow for transition measures for those currently operating as "outfitters" to become licensed as "guide-outfitters".

It would establish a commercial use permit fee, to be paid by all commercial services providers which would be separately accounted for and may be used by the legislature to fund game management and enforcement of game resources.

The bill would provide for disciplinary procedures and penalty provisions for commercial service providers to big game hunters. It adds "mountain goats" to the current species list, brown/grizzly bears and dall sheep, requiring a guide (non-residents and non-resident aliens). The bill defines "guide-outfit" and "field" and provides for confidentiality of hunt records and reports.

A sectional analysis has been prepared by legal services and will explain more fully the provisions in HB 112.

The Senate Finance Committee Substitute would make three changes to CS HB 112 (Finance) am:

1. Under unlawful acts, on Page 19, Line 12, it adds "state and federal" to the language which makes it unlawful to enter or remain on private lands.

This language is necessary for the purpose of consistency for guide-outfitter activities on all lands in Alaska, and refers only to "guide-outfitter" activity on those lands. The Task Force on Guiding and Game recommended the inclusion of this provision in the bill which makes it unlawful for a guide-outfitter to enter or remain on state, federal or private land. Additionally, the Guide Board considers guiding on lands without permission to be "unethical" activity. The addition of this provision in the unlawful section supports that action by the Guide Board.

2. On Page 26, Line 3, after [LICENSED MASTER GUIDE, REGISTERED GUIDE,], delete, "[or]", and add assistant guide-outfitter.

One provision in this bill would require assistant guides to take an examination, and provides additional assurances for competency of assistant guides. This language change would allow the assistant guide, who can currently guide non-resident clients under the supervision of a guide, to also guide non-resident aliens under the supervision of a guide.

3. On Page 25, after line 15, insert a new bill section which would give the Department of Fish and Game discretionary authority to require prior land use authorization before issuing a hunt permit. In some cases, a registration or drawing permit may be limited in number. Without this authorization, hunt permits may be issued to those hunters whose guide does not have the land use permit for the Game Management Unit where the hunt will take place. This language change would ensure that will not occur.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

February 14, 1989

The Honorable Bettye Fahrenkamp, Chairwoman
Senate Resources Committee
P.O. Box V
Juneau, Alaska

Dear Senator Fahrenkamp:

To assist your committee in its consideration of Senate Bill 140, I am writing to provide a synopsis of the Owsichek decision and its implications for creating an area management system for allocating guide access to big game.

1. SYNOPSIS OF THE OWSICHEK DECISION.

On October 21, 1988, the Alaska Supreme Court decided that the statutes and regulations that underlie the state's exclusive guide area system ("EGA") are unconstitutional. 1/

On December 8, the court granted the state's request that the effect of this decision be postponed until June 1, 1989. Therefore, the EGA system is currently enforceable. Beginning in June, the system will have no legal effect, and any licensed person may guide hunters in a game management unit for which he or she is certified. 2/

1/ The court uses the term "exclusive guide areas" to describe not only joint use areas but also "restricted guide areas," a term used to describe EGA's since 1986 when the term appeared in AS 08.54.195.

2/ When a guide is licensed by the Division of Occupational Licensing, he or she is "certified" to conduct hunts in only those game management units where the guide has experience. Except for older guides who were "grandfathered" into more units, most guides are limited by regulation to certification in not more than three game management units. 12 AAC 38.200.

(Footnote Continued)

The supreme court based the Owsichek decision on its interpretation of the "common use clause," i.e., article VIII, section 3 of the Alaska Constitution. This clause says, "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use."

This was the first time the court was called on to interpret the common use clause with respect to wildlife. In earlier decisions, it had discussed the clause in the context of state waters (Wernberg and CWC Fisheries) and in the context of fish (Ostrosky and Johns). In light of its earlier decisions, the court declared that the "common use clause was intended to guarantee broad public access to natural resources."

In order to further clarify the meaning of the common use clause, the court looked at the constitutional history of this clause and at the historic development of wildlife law in general. Concerning the constitutional history, the court said that the purpose of the clause was "anti-monopoly." It also found that the framers of the constitution intended to prohibit "exclusive grants or special privileges" and intended that the public "retain broad access to fish, wildlife and water resources."

In discussing the development of wildlife law, the court said that the common use clause "constitutionalized" the state's public trust duty toward wildlife. This is a duty to manage these resources for the benefit of all the people.

The court summarized its interpretation of the common use clause by stating that the clause was intended to put into the constitution "certain trust principles guaranteeing access to

(Footnote Continued)

At the time of the court's decision, 256 licensed guides had been assigned either exclusive or joint use guide areas. One hundred and eighty four licensed guides had no area to guide in. Therefore, after June 1 the Owsichek decision means that 184 more guides will be able to guide hunts in any of the game units for which they are certified. The additional hunting pressure, of course, varies from unit to unit. For example, the number of eligible guides in units 1, 2, 3, and 4 (southeast Alaska) will increase three-fold (from 13 to 33) while the number of eligible guides in unit 17 (Togiak - Dillingham area) will increase over six fold (from 17 to 129).

the fish, wildlife and water resources of the state" and, at a minimum, this meant a "prohibition against any monopolistic grants or special privileges." It also stated that the clause makes no distinction between use for personal purposes and use for professional purposes; common use applies to commercial guiding as well as recreational hunting.

In deciding that the EGA's violated these principles, the court noted the following features of the system:

1. The EGA system gave one guide the right to exclude all other guides from conducting hunts in his or her EGA. This right was based on the area holder's seniority, that is, his or her use, occupancy, and investment in the area.
2. EGA rights had no time limit, and the system of transferring them, based as it was on the selling of "improvements" and a holder's designation of his or her successor, allowed the selling of areas as if they were a property interest.
3. The assignment of EGA's was not based primarily on wildlife management concerns. The system could not be justified as a game management tool and therefore was unlike licensing requirements, bag limitations, and seasonal restrictions which were proper and "time-honored methods of conserving the resources." In this regard, it is important to note that the court said that even if used as a wildlife management tool, this would not "save the EGA system from unconstitutionality under the anti-monopolistic common use clause."

Finally, the court had made a distinction between the EGA's on one hand and state leases and exclusive concessions on the other. The latter are permissible because they are of limited duration, because they are subject to competitive bidding, because they are limited by contract terms and restrictions, and because the state receives compensation for them.

II. IMPLICATIONS FOR A NEW AREA MANAGEMENT SYSTEM

The Legislative Task Force on Guiding and Big Game has recommended that the state develop a new area management system for allocating access to guiding opportunities among licensed guides. It has recommended the establishment of a land-based concession system. While the Department of Law could defend this type of system, we believe that it would ultimately fail a legal challenge.

We may be able to defend a concession system based on an analogy to the state's current shore fisheries lease program. That program enables the Department of Natural Resources to lease small tracts of shoreline for use by persons who hold set net permits under the state's fisheries limited entry program. For a guide area system to qualify for this analogy and answer some of the concerns raised by Owsichek, the concessions would have to be limited to state owned lands, would have to involve small tracts of land, would have to be limited in duration (one to three years), and would have to provide equal opportunity of access for all qualified guides when the concession was available for reassignment.

Even with these features, we believe that a concession system would still be found unconstitutional because of the severe manner that it would impinge on the common use guarantee as expressed in Owsichek. The analogy to the shore fisheries lease program is weakened by several factors. That program is tied directly to the state's limited entry program, a system of limiting access to fishery resources that has constitutional underpinning. A guide concession would limit access to game opportunities without an equivalent constitutional basis. 3/

State concessions and leases, as such, are not included in the common use clause. When their purpose is to allocate access to resources like timber and grazing land, the state is freer to grant exclusive rights. When allocating exclusive access to fish, wildlife, or waters, however, a land-based system would conflict with the principle of broad public access guaranteed by the common use clause.

3/ In 1972 the Alaska Constitution was amended to allow the state to limit entry into fisheries. Ak. Const. art. VIII, §15. In a later case, the Supreme Court held that although fisheries limited entry is inconsistent with the "common use" clause, this system was validated by the 1972 amendment. State v. Ostrosky, 667 P.2d 1184 (Alaska 1983), appeal dismissed 467 U.S. 1201, 81 L.Ed. 2d 339 (1984).

There is no provision in the constitution that allows for limiting entry to game resources, and currently there is no proposal for such an amendment. (Amendments to the constitution are accomplished by a proposal by each house, passed by at least a 2/3 vote, followed by a majority vote of the public at the next general election. Ak. Const. art. XIII, §1.)

The Honorable Bettye Fahrenkamp
Chairwoman, Senate Resources Committee

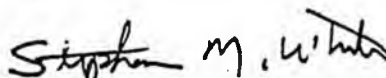
February 14, 1989
Page 5

Even if a system were developed that served only game management purposes and not the economic welfare of a segment of the guiding industry, it would not be safe. The Owsichek court noted that the common use clause precluded exclusive guide areas even if they could be justified as a wildlife management tool. ^{4/} In the court's view, the traditional game management tools -- licensing requirements, bag limits, and seasonal restrictions -- apparently are sufficient to protect the resource without conflicting with the clause. A court would recognize that the state can respond to any increased pressure on game resources by requiring hunter registration, permit drawing, or other methods now available to the Board of Game. Although these techniques may bring unpredictability to the business of guiding, we believe that a court would favor them over a system that has inherent constitutional problems.

In conclusion, a constitutional amendment is the only certain step that will guarantee a stable, long-term system that allows some, but not all qualified guides to have access to game resources in a particular area. We believe that any statutory, land-based system that does not have explicit constitutional underpinning and that resembles even remotely the EGA scheme that was struck down in Owsichek will be destined to the same fate.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Stephen M. White
Assistant Attorney General

SMW:jf

^{4/} Owsichek v. State, Guide Licensing and Control Board, 763 P.2d 488, 497 n.14 (Alaska 1933).

MAR 22 1989

Tom Hundley
P.O. Box 2772
Palmer, Alaska
99645
PH#(907)745-2084

Senator Rick Uehling
Alaska State Senate
Juneau

Dear Rick:

This letter concerns HB 112, SB 140, (Guiding and Game).
Thank you for you attention.

I have a copy of the work draft dated 3/13. This legislation contains provisions for continuation of the "Master Guide" license under Sec. 09.54.350 12-b.

I am looking forward to making a living under the Statutes and Regulations that this legislation spells out. My high hopes for the future lay with the creation of the new "Big Game Commercial Services Board".

I believe we are entering into a new era of responsibility in this profession. Where people (rather than benefitting from circumventing or ignoring regulations) are held accountable for their actions, and disciplined. Nothing else is appropriate, we have got to give a better accounting of ourselves. And that in the future, every action the new Board takes must have justification.

In order to build a new image for this industry the Board must show that there is reason for their actions. No longer can we afford to hand out special favors, privileges, grants, and phony titles arbitrarily as has been done in the past by the Guide Board. The re-insertion of the "Master Guide" license into this legislation is a throwback to the skewed mentality of some of the members of this industry that has been fostered over the years by controlling our trade under a Guide Board that was not so much a State licensing and disciplining agency as it was an extension of the A.P.H.A.'s will.

There had been talk within the industry for several years by members of the Guide Board advisory committee that Master Guides would be given Statewide licenses, Registered Guides limited to 3 Game Management Units. It is this whole awful scenario of certain individuals arbitrarily being given special status and privileged consideration (Exclusive Guide Areas!) that I had hoped would be erased with this legislation.

I am including 2 pages from some of the written testimony that I submitted to the Task Force on Guiding and Game. It graphically describes why it is no longer appropriate for that title to remain.

The last 5 months have been a very necessary housecleaning within the Guide industry. Please don't plant the seed for future problems. We're on a roll folks, headed for a better day. Don't fail me now.

Sincerely,
Tom Hundley
Reg. Guide

3/19/89

Tom Hundley
P.O. Box 2772
Palmer, Alaska
99645

Guide Task Force
119 N. Cushman St.
Suite 201
Fairbanks, Alaska
99701

Dear task Force member:

The main concerns that I hoped the task force would confront have been lessened by the recent Supreme Court decision abolishing Exclusive Guide Areas.

The Guide Area scheme was poorly thought out and plagued the guide industry with controversy since it's inception. Whatever few benefits it provided to the State of Alaska were far overshadowed by the neglect, by the Guide Board, in failing to enforce the statutes and regulations associated with the Guide Area system. By the abuses to our tax and finance laws that the sale and renting of Guide Areas led to. By the extorting of money from guides left with little alternative to enter the marketplace other than to purchase an Area. Over the last 15 years most of the Guide Boards time has been spent settling arguments over boundaries between men who, legally, had no right to control access to Alaska's public lands..... Bravo to the Supreme Court for diving a stake through that monster's heart.

Exclusive Guide Areas were not a game management tool. Quotas were not placed on the number of animals a guide could take. It was left up to the individual to decide. A rather strange notion considering the number of "same day airborne", and a myriad of other charges levied on Guide Area holders over the years.

We could accommodate more Registered Guides into the marketplace if we set quotas on volume. Recognize guides as woodsmen and good hunters, rather than just too busy pilots. We ought to be concerned about the number of animals taken, and the methods used to take them. More so than which lucky soul has an exclusive right to control access to public lands.

Another giant step in the right direction would be to accept that each and every Registered Guide is entitled to be considered just as worthy as the next, regardless of when they were licensed. The length of time a person is licensed in a particular trade says little about their level of skill.

One aspect of the guide licensing procedure that ought to be abolished is the title, "Master Guide". "Master Guide" implies a higher level of competence. But, there has never been any effort to guarantee a higher level of competence amongst the license holders. All a person has to do is continue to purchase a guide license for 10 years, avoid being convicted of a criminal violation having to do with Fish & Game law or guiding statutes within the past 5

years. Meet a couple more ambiguous requirements, put in your application, and bingo you're a master Guide. No exam. No periodic requirement to show continued effort at being a "Master" of the trade. You needn't ever guide again. As long as the license fee is paid the title remains.

Rather than a professional title reflecting a higher level of competence, it's sort of like being knighted by the King. The Supreme Court compared Exclusive Guide Areas to medieval fiefdoms. "Master Guide" fits real nice into that scenario. Imagine the uproar that would follow if the State licensed some lawyers as "Master Attorney", and others that passed the State Bar Exam with flying colours, as simply "Attorney". How about "Master Barber" -vs- Barber. "Master Pharmacist" -vs- Pharmacist.

Guiding is a trade. Professionals ought to gain recognition in their trade through their achievements, not through titles and special favors handed out arbitrarily by a state agency such as the Guide Board. The "Master Guide" license is a status symbol and adds an advantage when booking hunters. If the A.P.H.A. wants to hand out honorary titles, fine. But the State Of Alaska has no business adding this disparity to the guide licensing procedure.

*

Registered Guides are allowed (by the Guide Board) to be licensed in a maximum of 3 Game Management Units. That is, of course, unless they are licensed for more than 3. A quick glance through the Denali Registry (list of licensed guides) reveals that a lot of guides are licensed for a great deal more than 3 G.M.U.'s. How this came about is typical human nature. Why this disparity continues is puzzling. A cap was placed on the number of G.M.U.'s in 1980. Before that date whoever shouted the loudest got the highest number. I've talked to a lot of fellow guides about that, the consensus is: If a person had an aggressive nature and they demanded a high number of G.M.U.'s be placed on their license, they got it. Nobody could possibly have guided in all 26 Game Management Units in the State, yet there are some licensed for that many. I've guided in Units 5,8,13 11,9, 19,15, and appear on contracts for all of them. I'll eat my hat if some of those licensed for, say, from the Yukon south, can prove that they've ever guided on Kodiak or Southeastern Alaska. This disparity amongst licensed guides serves no purpose since under the (now defunct) Guide Area system a person could own a maximum of 3 Guide Areas. What it did do is add an advantage when filing on new Areas or purchasing Areas for transfer. (I'm licensed for 3)

The arbitrary method used to assign the number of G.M.U.'s in years past takes on special significance now that the State is contemplating alternatives to the Guide Area scheme. Under a permit system, would some individuals have the right to apply for permits all over the State, and others muddle by with 3? Some have suggested a "concession" scheme. Would some have the right to bid on concessions all over the State, others stuck with 3. C'mon folks, this is just another example of the "Good Old Boy" syndrome that adds controversy to an industry that needs to give a better accounting of itself.

We should all be licensed statewide, or all be restricted to

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

ALASKA'S BIG GAME


**A Report on the Commercial Aspects of
its Uses and Users**

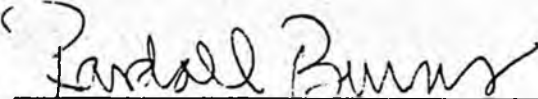
**A Final Report to
the 16th Legislature**

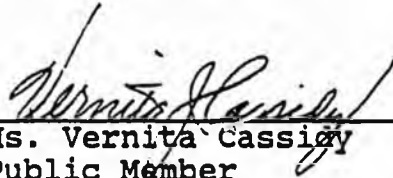
**Legislative Task Force on
Guiding and Game
January 1989**

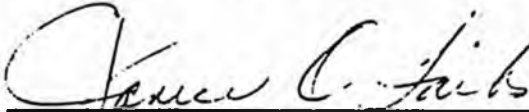
INTERIM TASK FORCE ON
GUIDING AND GAME

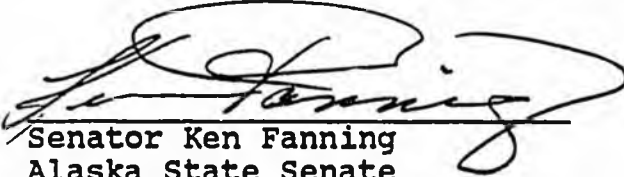
TASK FORCE MEMBERS



Mr. Pete Buist
Alaska Guide Board

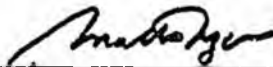

Mr. Randall Burns
Alaska Dept. of Commerce &
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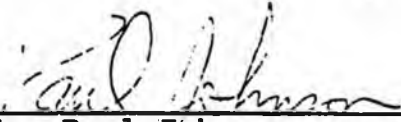

Ms. Vernita Cassidy
Public Member

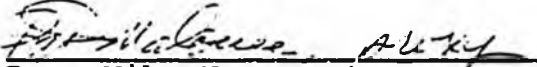

Senator Jan Faiks
Alaska State Senate

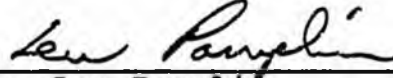

Senator Ken Fanning
Alaska State Senate



Mr. Phil Gilson
Alaska Department of
Public Safety

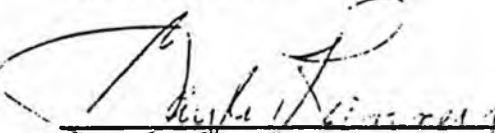

Mr. Matthew Iya
Public Member

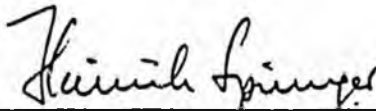

Mr. Paul Johnson
Guide Member


Rep. Mike Navarre
Alaska State House of
Representatives


Mr. Lew Pamplin
Alaska Department of
Fish & Game


Mr. Nick Pierskalla
Non-Guide Member


Ms. Gayle Ranney
Air Taxi Member


Rep. Heinrich Springer
Alaska State House of
Representatives

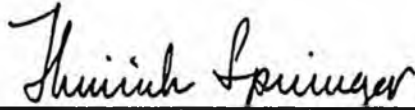
PREFACE

The Task Force has addressed the points mandated by Legislative Letter of Intent dated May 9, 1988.

The State Supreme Court decision in the Owsichek case dated October 21, 1988, has forced the issue of commercial use of game into a broader perspective. Originally the main emphasis was to clarify the relationship and role of "outfitters". After the court's decision it became clear that all aspects needed to be reexamined, especially the role of "guides", "outfitters", and "transporters". As a result the Task Force recommends some sweeping changes. We tried hard to establish a system that accommodates the constitutional "common use" clause, puts game management and the welfare of game on sound footing, provides a viable economic base for the industry, is cost effective and enforceable, and is simple enough for effective administration.

Big game is one of Alaska's outstanding values, both from a consumptive and non-consumptive use perspective. These recommendations should assist the legislature to formulate laws that fulfill the stated objectives.

We include with our report draft legislation which we feel should be enacted immediately, as well as recommendations for formulating an area-based management concept. We recommend that the Task Force be extended to assist the legislature in defining such a system and creating enabling legislation.



Heinrich Springer, Chairman

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TASK FORCE ACTIVITY SUMMARY

The 13 member Task Force on Guiding and Game was created by the legislature through SB 191. Subjects to be covered were contained in a "Letter of Intent" for HCS CS SB 191 (Rules) dated May 9, 1988.

The Task Force conducted the following meetings and work sessions:

July 18, 1988, at Anchorage, Legislative Information Office (LIO), 3111 "C" Street.

October 24-25, 1988, at Fairbanks, LIO, 119 N. Cushman Street.

November 15-16 at Soldotna, Kenai Borough Assembly Chambers.

December 12-15 at Anchorage, LIO, 3111 "C" Street.

Work sessions by teleconference:

January 4, 9, 10, 11, and 13, 1989.

A subcommittee on rural issues held two public meetings at Kotzebue on October 4, 1988, and at King Salmon on October 5, 1988. A subcommittee on data management held two work sessions at Anchorage.

The meetings were preceded by extensive advertisement on radio and in newspapers throughout the state and in all cases allowed access through the communications network of the Legislative Information Office plus toll free numbers for persons in remote locations. In addition, RurAL CAP did an extensive survey collecting opinions from rural residents; and Senator Fanning provided survey data submitted by guides and air taxi operators. All public hearings were well attended.

The Task Force appreciates the cooperation and testimony from many individuals and organizations. Many have given freely of their time and expertise. We want to thank particularly the Alaska State Board of Game; the Alaska State Guide Board; the Alaska Professional Hunter's Association; the Alaska Outfitter's Association; Ray DeMarchi, Canada, British Columbia Ministry of the Environment, Wildlife Branch; and Steve White, Alaska State Department of Law.

The 15th Legislature addressed the problems in the field caused by unregulated "outfitters" through SB 191 and the initial work of the Task Force went in that direction.

On October 21, 1988, a couple of days prior to our Fairbanks meeting, the Supreme Court issued its decision on the Owsichek case. The timing was excellent from the Task Force's work standpoint. And basically the emphasis shifted from "outfitting" to commercial use in general. This is reflected in the recommendations. Some sweeping changes are envisioned and submitted as recommendations for consideration. Although the court decision disallows several logical approaches to game management, we believe it still allows creation of systems that reach the stated objectives.

The Task Force represented a broad cross-section of state agencies and user group viewpoints with varying and often conflicting opinions. The extensive public hearings, research, and in-depth discussions provided not only the forum, but also the background to make careful, enlightened, and fair recommendations for immediate and long-term action which will ensure proper wildlife conservation as well as a stable environment for offering commercial services for big game hunting. A fragile, but important balance has been struck. Our recommendations represent a compromise in which each specific recommendation is important to the effectiveness of the overall policy changes.

The main points of our findings and recommendations are:

- a. Support for "commercial use" of game. Throughout this report the term "commercial use" refers to the providing of hunting services for compensation.
- b. Necessity to regulate all commercial users.
- c. Recognition of three main user groups: Guide-Outfitters, Transporters, and Commercial Permit Holders and establishment of licensure requirements for Guide-Outfitters.
- d. Replace the present Guide Board with a Big Game Commercial Services Board.
- e. Create a state established and controlled area management plan.
- f. Distribute use privileges to the commercial big game industry within the framework of the State's regulations and the Supreme Court's criteria.
- g. Concentrate on long-term plans, but address interim functions.

These recommendations are described in more detail as follows.

RECOMMENDATIONS

The Task Force adopted protection of game resources as its highest priority and as an umbrella policy. All deliberations and recommendations incorporated this principle. While various agency or user group interests were sometimes compromised, wildlife conservation never was.

The Task Force closely followed the topics stated in the "Letter of Intent" for HCS CS SB 191 (Rules), albeit the Owsichuk decision considerably broadened the scope of our review in some areas. The Task Force makes the recommendations listed below:

1. Commercial use of game is a valid principle.

The Task Force on Guiding and Game recognizes that the commercial utilization of big game is an important part of a sound wildlife resource management system and that the State of Alaska realizes significant social and economic benefits from maintaining a viable commercial big game hunting industry. Alaska's big game hunting opportunities draw international attention and contribute a substantial amount to the state's tourism economy. As the world's human population continues to increase, and the resource base continues to decline, the economic and social value of these hunting opportunities will grow.

The Task Force recognizes and supports the validity of the commercial utilization of game in Alaska, within the existing framework of resource priority allocation.

2. All commercial users need to be regulated.

The State of Alaska should develop a regulatory system which ensures the health of the big game resource and permits the commercial big game hunting industry. For this to occur all commercial users must be subject to consistent and stable regulations.

3. Owsichek Case

On October 21, 1988, the Alaska Supreme Court issued its ruling on the constitutionality of the exclusive or restricted guide area system. It clearly stated that the present exclusive guide area system violates the "common use" clause of the state constitution.

Any system needs to address the following points:

1. Open access to the system;
2. Limited duration of use privilege;
3. Validity of a management principle; and,
4. Compensation to the state.

On November 1, 1988, assistant Attorney General, Stephen M. White, issued an analysis of this decision.

On December 8, 1988, the Alaska Supreme Court issued a "stay" of its decision until June 1, 1989, thus allowing the legislative and executive branches time to address the problem.

4. Examination of other states and countries.

The Task Force has examined statutes and regulations which apply to other states and countries relating to commercial aspects of game and finds them of limited value. While other areas have faced similar problems as Alaska and have found applicable solutions, their charters and constitutions contain clauses different from ours. Alaska is unique in respect to the constitutional provisions for "common use" of game, subsistence priority, and sustained yield mandate for the taking of game. (Article VIII, Sections 3 and 4, Alaska Constitution.)

5. User Group Definition.

The Task Force recommends three commercial user groups: Guide-Outfitter, Transporter, and Commercial Permit Holder.

The Guide-Outfitter can provide a broad range of services statewide, ranging from guiding to outfitting. Guide-Outfitters are the only user group who can provide services in "the field". They should be limited to selecting and operating in no more than three (3) Game Management Units (GMU's).

"The field" means any area outside of established, year-around dwellings, businesses, and other developments normally associated with villages, towns, or cities, excluding hotels and roadhouses located on the state highway system.

The Transporter is limited to providing transportation directly servicing big game hunts.

The Commercial Permit Holder is a third group consisting of service providers such as lodge operators/hunt brokers, expeditors, gear renters and commercial photographers, all of whom need to be identified and regulated. Since most of these already require some form of commercial registration, a commercial use permit will suffice to identify them. "Clubs" present a specific problem which is addressed under separate legislation.

6. User Group Qualifications and Licensure.

QUALIFICATIONS:

When appropriate, all commercial users listed below must pass an appropriate examination.

Guide-Outfitter must comply with the requirements under current law for registered or master guides and the term master guide shall be deleted. The Task Force recommends that guide-outfitter licenses shall be issued to a natural person (not an entity).

Class A Guide-Outfitter must comply with the requirements under current law for Class A Assistant Guides, with the following change: reduce the experience requirement from 20 to 10 years. It is recommended that the requirement for a letter of recommendation be deleted. It is further recommended that the state retain the special class of Marine Mammal Guide-Outfitter.

Assistant Guide-Outfitter must be at least 18 years of age, have hunting experience in the state for at least two of the past five years, possess a first aid card and have completed CPR training or equivalent (e.g., EMT or MD). It is recommended that the requirement for a letter of recommendation be deleted.

Transporter must comply with federal and state requirements for operation (transporter utilizing aircraft must have complied with Part 135; transporter utilizing boats must have U.S. Coast Guard license.)

Commercial Permit Holder must comply with federal and state requirements for operation.

All commercial users must comply with all federal and state requirements for operation, including holding lawful permits for lands occupied by the service provider.

USER GROUP LICENSES REQUIRED:

Guide-Outfitter:

1. Alaska business license
2. Guide-Outfitter license (in the appropriate category)
3. Commercial Use permit

Transporter:

1. Alaska business license
2. Transporter license
3. Commercial Use permit

Commercial Permit Holder:

1. Alaska business license
2. Commercial Use permit

Aircraft Operation Requirements:

The Task Force recommends deletion of AS 08.54.210 (a)(6) relating to Federal Aviation regulations (FAR) Part 135 requirements.

Although the Task Force is recommending that the Part 135 portion of SB 191 be deleted, this is not to indicate that the guides are being given a green light to continue using aircraft in their guiding businesses beyond what would be considered "incidental" flying. The Task Force merely feels that the regulation of commercial air commerce is under the authority of the Federal Aviation Administration.

It is suggested that those guides using aircraft for flying beyond that which is considered incidental should begin the process of application for Part 135, or should hire an existing air taxi for that portion of their flying. It is recognized that the maintenance program, the annual check rides and the inspections required for Part 135 are conducive to a safe operation.

In regards to the provisions of Part 135, the Task Force saw no need to develop a legal definition for "incidental", but rather allow the federal agencies to impose a definition as it pertains to aircraft operations (FAR Part 135).

Rural Concerns:

Rural residents often have excellent guide-outfitter capabilities from a practical standpoint, but sometimes lack the educational and theoretical aspects of the examination process to qualify for a guide-outfitter license.

In addition to recognizing traditional difficulties in rural communities, the Task Force believes that the new board needs to substantially increase its information dissemination activities to enable rural residents interested in becoming licensed guide-outfitters greater access to the licensing procedures. Enabling legislation needs to accommodate this situation.

7. User Group Reporting Requirements.

Those engaged in providing commercial services for the purpose of taking game as Guide-Outfitter, Transporter or Commercial Permit Holder must comply with annual reporting requirements based on Department of Fish and Game (ADF&G) and Public Safety final recommendations. Completion of the annual reporting requirement is a prerequisite for licensing (base camp registration).

Individual reports which pertain to the commercial aspects of game shall be confidential.

Decals, for the purpose of law enforcement identification of commercial users, should be required on all aircraft, boats, etc.

8. Fee Structure.

The Task Force has considered and established a list of suggested fees as follows:

1. Fixed Commercial Use Permit Fee - \$25 to \$50;
2. Big Game Conservation Fee - 25% of existing big game tag fee (also known as "head tax"); and,
3. License fee

Not less than 50% of the fees collected should be designated for game management.

9. Insurance and Bonding.

The Task Force has reviewed the concept, cost and availability of insurance and bonding for commercial users and has determined that, while they support and encourage having insurance, whenever possible, the market condition and difficulty of acquiring insurance and bonding may pose extreme hardships on a great number of commercial users.

Transporters and some service providers are required to have insurance in their respective fields by other regulations.

10. Penalty.

The Task Force has reviewed the statute, AS 08.54.210, and recommends the following changes, as detailed under Article 6 of the recommended legislation for unlicensed guiding, which imposes a felony penalty, and recommends the following changes:

1. Eliminate the mandatory one year sentence;
2. Make first time offenses a misdemeanor with a minimum incarceration of two months, and raise the maximum fine that may be imposed to \$30,000;
3. Make some second time offenses a felony;
4. Do not allow the judge to impose a Suspended Imposition of Sentence (SIS); and
5. Encourage continued cooperation between the Department of Public Safety, Division of Fish and Wildlife Protection and the District Attorney's office.

11. Transitional Measures for User Groups.

Those outfitters who have been engaged in the big game commercial services industry as "outfitters", and have complied with current requirements under SB 191 (registered base camps, etc.) and can show financial proof of activity in 1986, 1987, and 1988 (business license, financial documentation, IRS) may continue to operate, in the interim, until new laws have been adopted. Within one year of the effective date of passage of a new law, they must pass the guide-outfitter exam and may continue to operate as outfitters under SB 191 requirements, during that transitional period.

12. Role of State Employee.

The Task Force has examined the question of whether state employees shall be allowed to participate in the commercial taking of game and has determined that the ADF&G and DPS have policies and procedures (P&P) to administer ethics and conflict of interest statutes and that strict adherence must be enforced. They further recommend that the agencies (ADF&G and DPS) request an Attorney General's opinion on the appropriateness of state employees' participation in the commercial game industry.

13. Guide Required Species.

The Task Force has considered the question of adding species to the required guide list and recommends that mountain goats be added to the required guide list.

Based on testimony, this will go a long way to provide some compatibility with the present demand that non-residents require "guides" for hunting of sheep and brown/grizzly bear. Climate, terrain, and nature of these species necessitate assistance to the non-resident hunter.

14. Creation of a new Big Game Commercial Services Board.

The Task Force has reviewed the Legislative Budget and Audit reports for 1985 and 1987. Some problems with the Guide Board are apparent. The Task Force recommends that the Guide Board sunset upon the creation of an expanded board whose function is to regulate the activity and licensing of commercial big game user groups. That board membership shall consist of two Guide-Outfitters, one Transporter, one representative from ADF&G, and one from FWP, one State land manager (DNR), one Native land manager, one public member and one Game Board member. The board shall be administered by the Department of Commerce and Economic Development (DCED).

15. Extension of Task Force on Guiding and Game.

The Supreme Court decision on the Owsichek case shifted the emphasis of the Task Force's work from regulation of "outfitters" to a much broader scope. Since a "management system" is of paramount importance and consequence, the Task Force recommends that it be extended in order to assist the legislature in the formulation of laws pertaining to management system and area concept schemes.

16. Management System.

Due to the resulting time constraints the Task Force was unable to analyze and present a complete recommendation on the management system.

The Supreme Court issued a "stay" of its decision until June 1, 1989, which will allow the legislature to act in a deliberate manner to address this situation. In order to assist the legislature in the formulation of such a law, we recommend to extend this Task Force to capitalize on work already done.

The following preliminary recommendations are given, realizing that additional information is needed:

The Task Force finds that some kind of an area based game management concept is of utmost importance. Nearly all countries and states in the world that manage game have adopted some kind of land based management system. It is necessary to integrate the guiding-outfitting operations into Alaska's well established game management system.

Our constitutional requirements and our complex game resource allocation system (subsistence, resident and non-resident hunting) makes development and administration of an area based system a very difficult task indeed.

The obvious option to allow unrestricted access is not viable, as it would only recreate the conditions that existed in the 60's, which prompted the establishment of an assigned area system in the first place. Subsistence priority rights have been established and need to be incorporated in any management scheme. Although the game is under state jurisdiction, land surface right holders indirectly control access to game. Checkerboard distribution of land holdings further complicates this. Furthermore, federal agencies, who control the majority of land, have different regulations. The major land owners need to participate in the formulation of the management system.

Following their discussions of a management system, the Task Force recommends for immediate action, that:

1. ADF&G be designated as lead agency, whose purpose is to formulate and designate management areas within the present GMU framework; and,
2. DNR needs ability to expeditiously adopt a concession or use system that is compatible with other land uses and the practices of other land areas.

The Task Force also recommends for consideration:

The state should establish a lease, concession, or allocation system on a staggered schedule;

The state should derive some financial benefits from the commercial utilization of a public resource; such revenue should be at least partially (not less than 50%) used for game management purposes;

Allocation methods of such use privileges need to be established (lottery, negotiated, competitive bidding, etc.).

Implementation of such legislation requires close work with the Alaska Departments of Law, Natural Resources, Fish and Game, and Public Safety. The Task Force has spent considerable time on these matters and is most willing to assist.