

**HB**

**364**

Alaska State House of Representatives  
House District 39

Session

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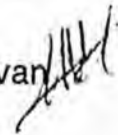
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**Representative Ivan M. Ivan**

**MEMORANDUM**

TO: Representative Scott Ogan, Co-Chair  
Representative Bill Hudson, Co-Chair  
House Resources Committee

FROM: Representative Ivan M. Ivan 

DATE: February 3, 1998

RE: Request for Hearing-House Bill 364

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Please consider this request to hear House Bill 364: "An Act requiring nonresident hunters to be accompanied when hunting moose; and providing for an effective date."

This bill requires nonresident hunters to be accompanied by a registered guide while hunting moose.

Thank you for your consideration of my request. Please do not hesitate to contact me if I can answer any questions or provide further information.

IMI:tw

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**Representative Ivan M. Ivan**

## SPONSOR STATEMENT - HOUSE BILL 364

The purpose of House Bill 364 is to require nonresident hunters to be accompanied in the field by a registered guide while hunting moose. With present moose antler restrictions for nonresident hunters, a 50 inch minimum in most game management units, there are major conservation reasons for this guide requirement.

- The inability of inexperienced hunters to judge 50 inch minimum antler requirements.
- Abandonment of sub legal moose constitutes a wasteful situation.
- Inability of unaccompanied nonresidents to care for and preserve large amounts of moose meat.

There are benefits for the requirement of a registered guide in these hunts,

- Guided hunts would reduce the number of nonresidents harvesting moose in direct competition with local hunters.
- The responsibility of judging legal bulls and the preservation of meat is placed on the guide which is subject to tight scrutiny by enforcement and commerce.
- The state would be compensated for land use fees paid to DNR. These fees are not collectible from drop off hunts conducted by transporters or air taxi operators.

- Hunting pressure would be more widely dispersed instead of concentrated.

One of my main concerns, however, is the waste of meat. Transporters cannot be held responsible for spoilage or wanton waste while guides by law must make certain that waste does not occur or else risk the consequences of losing his or her guide license.

## Guide Requirement for Non-Resident Moose Hunters

In 1990 the Alaska Board of Game extended the 50-inch minimum moose antler requirement to every nonresident moose hunt in all twenty-six Game Management Units. This regulation temporarily reduced the nonresident harvest of moose, but despite this regulatory effort, nonresident demand for moose hunts and harvest have increased. This market is now dominated by lower priced, unguided moose hunts, which only a decade ago were confined to a minimal air taxi drop-off effort and unlicensed outfitters. Presently there are a growing number of commercial air-taxi operators responding to this demand for unaccompanied hunts.

These operations are conducted in many game management units that are characterized by (1) longer open moose seasons, (2) accessible by air and reasonable flight time, (3) easily accessed land, lake, or river landing areas, and (4) convenient to major airports. This large nonresident demand has created an industry dedicated to volume traffic with little responsibility to resource conservation, environmental impacts, or concern for conflicts with local residents. Moreover, these drop off operations have adopted guiding techniques without similar regulatory restrictions.

Operators catering to drop off hunters and outfitting unaccompanied nonresidents are not subject to most of the regulatory and ethical restraints placed on registered guides. Consequently, responsibility to the client and the resource are minor considerations. Profits are based on the ability to rapidly place and remove clients to and from the field. Reduction in season length and implementation of a 50-inch antler restriction has not precluded air taxi operators from concentrating nonresident hunters in certain locations. Conversely, guided moose hunts require random placement of camps with a high level of responsibility to the hunting client and to resource conservation concerns.

The Department of Natural Resources requires that a guides' spike camps be moved every two weeks insuring minimal disturbance to habitat. In addition another important consideration for this use of state lands is that fees are required of registered guides to establish spike camps. Commercial air taxi operators and their unaccompanied nonresident clients are not held responsible for the environmental impact of their activities in the field, pay no fees, and are not required to move camps.

Disregard for traditional rural hunting areas is another negative aspect of the unguided drop off industry. Documented conflicts with rural resident hunters in the Holitna River and Galena areas provide evidence of these practices. Rural residents do most of their hunting by boat on accessible river systems where most of the conflicts with drop off hunters has occurred. Success is mainly opportunistic along river systems and unaccompanied nonresident hunters have little time to correctly judge moose antlers. A registered guide would not intentionally place clients in areas where residents frequently hunt. Guided clients are paying for a wilderness experience, not a repeat of what hunters encounter in the lower 48 states. Guides prefer to operate in open upland habitat where

conditions are maximized for viewing moose, providing ample opportunity to judge antler size.

A major conservation related problem is that the average nonresident who has never hunted moose cannot with any certainty judge the antler size of moose. There is evidence to suggest that considerable abandonment and waste of under sized bull moose is occurring. Spoilage of meat in the field is also a problem, especially on raft hunts. Unaccompanied hunters may be unable to care for meat during a lengthy raft trip. Unguided hunters are responsible for salvage of meat; however transporters can not legally be held responsible for spoilage or wanton waste. In contrast, guides are required by law to make certain that this waste does not occur.

Legislative determinations required guides to accompany nonresidents for some big game species for conservation reasons. Title 16 requires that nonresidents must be accompanied in the field by a registered guide when hunting Dall sheep, grizzly/brown bear, and mountain goats. These requirements were first based on conservation reasons and secondarily for safety reasons. For instance the full curl horn requirements for Dall sheep is certainly standardized and easily judged in comparison to the arbitrary fifty inch antler minimum for bull moose. The brow tine requirement, while somewhat simplifying antler judgement, doesn't guarantee errors will not be made. Thus, comparing the criteria used for big game species requiring a guide, the 50-inch moose antler requirement for nonresidents is the most arbitrary and difficult to judge. Present regulations require that a registered guide must accompany only nonresident alien moose hunters.

I suggest that with present moose antler restrictions there are sufficient conservation related grounds to require nonresidents hunting moose to be accompanied by a registered guide. These grounds are as follows:

1. The inability of inexperienced moose hunters to judge 50 inch minimum antler requirements.
2. Abandonment of sub legal moose constitutes a wasteful situation.
3. Inability of unaccompanied nonresidents to care for and preserve large amounts of moose meat.

Secondary benefits of requiring a registered guide:

1. Guided hunts would reduce the number of nonresidents harvesting moose in direct competition with local hunters.
2. Requiring a registered guide places the responsibility of judging legal bull moose and the preservation of meat on the shoulders of the closely regulated guiding industry subject to tight scrutiny by enforcement and commerce agencies.
3. The state would be compensated for land use fees paid to the Dept. of Natural Resources (Fees now not collectible from drop off hunts).
4. Hunting pressure would be more widely dispersed instead of concentrated.

Note: This draft revision was prepared by Peter E.K. Shepherd on January 1, 1998.

*Pete Shepherd*

BRISTOL BAY NATIVE ASSOCIATION  
P. O. BOX 310  
DILLINGHAM, ALASKA 99576  
(907) 842-5257

RESOLUTION FY 98-21  
by  
THE FULL BOARD OF DIRECTORS

WANTON WASTE OF GAME

WHEREAS: residents of the Bristol Bay villages have observed increased sport hunting activities in the regional drainages; and

WHEREAS: much of the sport hunting, by fly-in guided and unguided hunters, appears to be directed at trophy hunting, and there have been many instances of wasted meat; and

WHEREAS: moose and caribou stocks in the Bristol Bay region drainages are declining.

NOW THEREFORE BE IT RESOLVED by the Board of Directors of the Bristol Bay Native Association considers the wanton waste of game, particularly moose and caribou by sport hunters in the Bristol Bay region drainage to be a serious and increasing problem, and

BE IT FURTHER RESOLVED that the Board of Directors that the Alaska Department of Fish and Game, and other agencies as appropriate, take regulatory, enforcement, or other measures as appropriate, to reduce the wanton waste of game by sport hunters in the Bristol Bay drainages.

Signed: Donald J. Nelson  
President

CERTIFICATION.

I, the undersigned Secretary of the Bristol Bay Native Association, hereby certify that the foregoing resolution was passed by majority vote of the Full Board of Directors of the Bristol Bay Native Association at a duly called and noticed meeting this 7 Day of October, 1997, and that a quorum was present.

Signed: Marianne Nelson  
Secretary

Sec. 16.05.407. Nonresident hunting big game animals must be accompanied.

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

(1) a person who is licensed as a registered guide, master guide, class-A assistant guide, or an assistant guide under AS 08.54; or

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

(A) the spouse of the nonresident; or

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

(b) An applicant for a nonresident big game tag for the taking of an animal specified in (a) of this section shall first furnish to the state, on a form provided by the state, an affidavit showing that the applicant will be personally accompanied while hunting by a person who is qualified under the terms of (a) of this section. A person who falsifies the required affidavit is guilty of perjury under AS 11.56.200.

(c) [Repealed, Sec. 27 ch 71 SLA 1986].

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

(e) [Repealed, Sec. 18 ch 37 SLA 1989].

(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 federal or private land where the permit hunt will occur. The authorization shall be provided to the applicant by the registered guide or master guide with whom the applicant has contracted to guide the permit hunt.

History -

(Sec. 1 ch 86 SLA 1967; am Sec. 39, 40 ch 59 SLA 1982; am Sec. 1 ch 74 SLA 1982; am Sec. 1 ch 111 SLA 1984; am Sec. 24, 25, 27 ch 71 SLA 1986; am Sec. 9, 10 ch 160 SLA 1988; am Sec. 5 - 7, 18 ch 37 SLA 1989; am Sec. 6, 7 ch 33 SLA 1996)

Revisors Notes -

Enacted as AS 16.05.405. Renumbered in 1967.

In 1989, "is" was deleted from the beginning of subsection (a)(2)(F) to correct a manifest error in the original enactment.

Cross References -

For construction of the 1996 amendments, see Sec. 15, ch. 33, SLA 1996 in the Temporary and Special Acts. For transitional provisions relating to the 1996 amendments, see Sec. 13 and 14, ch. 33, SLA 1996 in the Temporary and Special Acts.

Amendment Notes -

The 1988 amendment, effective June 17, 1988, inserted "or (e)" in subsection (d) and added subsection (e).

The 1989 amendment, effective May 12, 1989, substituted "mountain goat" for "polar bear" in the first paragraph of subsection (a); rewrote paragraph (a)(1); deleted "or (e)" following "under (b)" in subsection (d); repealed subsection (e); and added subsection (f).

The 1996 amendment, effective May 23, 1996, in subsection (a), substituted "registered guide, master guide, class-A assistant guide, or an assistant guide under AS 08.54" for "guide-outfitter, class-A assistant guide-outfitter or assistant guide-outfitter by the big game commercial services board" in paragraph (1) and, in subsection (f), deleted "state," preceeding

"federal" in the first sentence. substituted "registered guide or master guide" for "guide-outfitter" and "guide" for "guide-outfitter" in the second sentence. and made a minor stylistic change.

AG Opinions -

The state can require an Alaska resident to have a guide if there is a sufficient factual basis to support the need for residents to be accompanied by a guide. Mar. 14, 1988 Op. Att'y Gen.

In general, the validity of big game guide requirements is premised upon the need to protect public resources and the hunting public. Hazards of rugged terrain, dangerous animals, and inclement weather have also been raised as justifications for requiring hunters to be accompanied by guides. Similarly, the need to protect public resources from hunters unfamiliar with state conservation laws has also been cited as a basis for requiring a guide. Mar. 14, 1988 Op. Att'y Gen.

Decisions -

Cited in *Owsichek v. State*, 763 P.2d 488 (Alaska 1988).

Collateral Refs -

Constitutionality of state laws which discriminate against nonresidents or aliens as to fishing and hunting rights, 52 L. Ed. 2d 824.

0-LS1455B  
- Utermohle  
3/19/98

**CS FOR HOUSE BILL NO. 364( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTIETH LEGISLATURE - SECOND SESSION**

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE IVAN

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to transporters of big game hunters, moose hunting orientation  
2 courses, and nonresident big game tags for moose; and providing for an effective  
3 date."

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

5 \* **Section 1.** AS 08.54.650 is amended by adding a new subsection to read:

6 (d) In order to maximize the use of game taken by clients of transporters, a  
7 transporter shall contact clients at least once every three days while the clients are in  
8 the field and, if necessary, transport meat of game taken by the clients out of the field  
9 before waste or spoilage can occur.

10 \* **Sec. 2.** AS 08.54.720(a) is amended to read:

11 (a) It is unlawful for a

12 (1) person who is licensed under this chapter to knowingly fail to  
13 promptly report to the Department of Public Safety, division of fish and wildlife  
14 protection, and in no event later than 20 days, a violation of a state game, guiding, or

1 transportation services statute or regulation that the person reasonably believes was  
2 committed by a client or an employee of the person;

3 (2) person who is licensed under this chapter to intentionally obstruct  
4 or hinder or attempt to obstruct or hinder lawful hunting engaged in by a person who  
5 is not a client of the person;

6 (3) class-A assistant guide or an assistant guide to knowingly guide a  
7 hunt except while employed and supervised by a registered guide;

8 (4) person who holds any class of guide license to knowingly enter or  
9 remain on private land without prior authorization during the course of providing big  
10 game hunting services;

11 (5) registered guide to knowingly engage in providing big game hunting  
12 services outside of

13 (A) a game management unit for which the registered guide is  
14 certified; or

15 (B) a use area for which the registered guide is registered under  
16 AS 08.54.750 unless the registration requirement for the area has been  
17 suspended by the Department of Fish and Game;

18 (6) person to knowingly guide without having a current registered  
19 guide, class-A assistant guide, or assistant guide license and hunting license in actual  
20 possession;

21 (7) registered guide to knowingly fail to comply with AS 08.54.610(e);

22 (8) person who is licensed under this chapter to knowingly

23 (A) commit or aid in the commission of a violation of this  
24 chapter, a regulation adopted under this chapter, or a state game statute or  
25 regulation; or

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

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

30 (ii) reporting the violation;

31 (9) person without a current registered guide license to knowingly

- 1 guide, advertise as a registered guide, or represent to be a registered guide;
- 2 (10) person without a current master guide license to knowingly
- 3 advertise as, or represent to be, a master guide;
- 4 (11) person without a current registered guide license to knowingly
- 5 outfit a big game hunt, advertise as an outfitter of big game hunts, or represent to be
- 6 an outfitter of big game hunts;
- 7 (12) person to knowingly provide transportation services to big game
- 8 hunters without holding a current registered guide license or transporter license;
- 9 (13) person without a current transporter license to knowingly advertise
- 10 as, or represent to be, a transporter;
- 11 (14) class-A assistant guide or an assistant guide to knowingly contract
- 12 to guide or outfit a hunt;
- 13 (15) person licensed under this chapter to knowingly violate a state
- 14 statute or regulation prohibiting waste of a wild food animal or hunting on the same
- 15 day airborne;
- 16 (16) person to knowingly provide big game hunting services
- 17 [SERVICE] or transportation services during the period for which the person's license
- 18 to provide that service is suspended or revoked;
- 19 (17) registered guide, except in the defense of life or property, to
- 20 knowingly personally take
- 21 (A) big game while accompanying a client in the field; or
- 22 (B) a species of big game if the registered guide is under
- 23 contract with a client to provide a guided hunt for that species of big game and
- 24 the client is in the field;
- 25 (18) person who is licensed as a registered guide, a class-A assistant
- 26 guide, or an assistant guide, except in the defense of life or property, to knowingly
- 27 personally take big game while a client of the registered guide by whom the person
- 28 is employed is in the field unless the person is not participating in, supporting, or
- 29 otherwise assisting in providing big game hunting services to a client of the registered
- 30 guide by whom the person is employed; [OR]
- 31 (19) person who is licensed as a transporter, or who provides

1 transportation services under a transporter license, to knowingly accompany or remain  
2 in the field with a big game hunter who is a client of the person except as necessary  
3 to perform the specific duties of embarking or disembarking big game hunters, their  
4 equipment, or big game animals harvested by hunters; this paragraph does not apply  
5 to a person who holds both a transporter license and any class of guide license issued  
6 under this chapter; or

7 (20) person who is licensed as a transporter to knowingly fail to  
8 comply with AS 08.54.650(d).

9 \* Sec. 3. AS 08.54.720(b) is amended to read:

10 (b) In addition to a disciplinary sanction imposed under AS 08.54.710, a  
11 person who commits an offense set out in (a)(1) - (7) or (17) - (20) [(a)(1) - (7), (17),  
12 (18), OR (19)] of this section is guilty of a misdemeanor and is punishable by a fine  
13 of not more than \$10,000 or by imprisonment up to one year, or both.

14 \* Sec. 4. AS 08.54.720(r) is amended to read:

15 (f) In addition to the penalties set out in (b) - (e) of this section and a  
16 disciplinary sanction imposed under AS 08.54.710,

17 (1) the court may order the department to suspend the guide license or  
18 transporter license of a person who commits a misdemeanor offense set out in (a)(1),  
19 (3) - (5), (7), or (17) - (20) [(a)(1), (3) - (5), (7), (17), (18), OR (19)] of this section  
20 for a specified period of not more than three years;

21 (2) the court shall order the department to suspend the guide license or  
22 transporter license of a person who commits a misdemeanor offense set out in (a)(2)  
23 or (8) - (14) of this section for a specified period of not less than one year and not  
24 more than five years;

25 (3) the court shall order the department to suspend the guide license or  
26 transporter license for a specified period of not less than three years, or to permanently  
27 revoke the guide license or transporter license, of a person who commits an offense  
28 set out in (a)(15) or (16) of this section; and

29 (4) all guns, fishing tackle, boats, aircraft, automobiles, or other  
30 vehicles, camping gear, and other equipment and paraphernalia used in, or in aid of,  
31 a violation of (a) of this section may be seized by persons authorized to enforce this

1 chapter and may be forfeited to the state as provided under AS 16.05.195.

2 \* Sec. 5. AS 16.05.050 is amended by adding a new paragraph to read:

3 (20) to provide moose hunting orientation courses for residents and  
4 nonresidents.

5 \* Sec. 6. AS 16.05.340(a)(15) is amended to read:

6 (15) Nonresident big game tags

7 A nonresident may not take a big game animal without previously purchasing a  
8 numbered, nontransferable, appropriate tag, issued under this paragraph. The tag must  
9 be affixed to the animal immediately upon capture and must remain affixed until the  
10 animal is prepared for storage, consumed, or exported. A tag issued but not used for  
11 an animal may be used to satisfy the tagging requirement for an animal of any other  
12 species except moose for which the tag fee is of equal or less value.

- 13 (A) Bear, black, each . . . . . \$ 225
- 14 (B) Bear, brown or grizzly, each . . . . . 500
- 15 (C) Bison, each . . . . . 450
- 16 (D) Caribou, each . . . . . 325
- 17 (E) Deer, each . . . . . 150
- 18 (F) Elk, each . . . . . 300
- 19 (G) Goat, each . . . . . 300
- 20 (H) Moose, each . . . . . 400

21 A nonresident may not obtain a moose tag unless the nonresident furnishes proof  
22 of completion of a moose hunting orientation course offered by the department  
23 or furnishes an affidavit showing that the nonresident will be personally  
24 accompanied while moose hunting by a person who is licensed as a registered  
25 guide, master guide, class-A assistant guide, or assistant guide under AS 08.54.

- 26 (I) Sheep, each . . . . . 425
- 27 (J) Wolf, each . . . . . 30

28 A nonresident is not required to have a nonresident wolf tag to take a wolf in a game  
29 management unit if the Board of Game has adopted an intensive management program  
30 under AS 16.05.255 for all or a portion of the game management unit.

- 31 (K) Wolverine, each . . . . . 175

1 (L) Musk oxen, each ..... 1,100

2 \* Sec. 7. This Act takes effect January 1, 1999.