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REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT CS HB 19 (FSH)

The guided sport fishery is an important and rapidly growing commercial industry in the Alaska economy. The ability of the state to provide for the sustainable development and sound, sensible management of our fishery resource is dependent upon the availability of complete information upon which to base decisions. My main goal with HB 19 is to provide for the collection of this data.

There is a lack of data available regarding the commercial guided sport fishery in Alaska. Registration of the guides themselves is required on a few rivers, but not everywhere. Currently, no uniform licensing procedure for sport fish guides exists in Alaska. Thus, we do not have complete information about who is actively engaged in commercial sport fish guiding, how many clients are served, what the catch rates are, and what rivers, streams and marine waters are being utilized.

Without a means for gathering information, it is impossible to monitor the activity or growth of the commercial sport fish fishery on a statewide basis. It is imperative for the state to have solid information to ensure the sustainable development of this commercial industry and to ensure the sound management of the fishery resources upon which this commercial industry depends. It is time to acknowledge this important growing industry and make sure that management decisions can be based on complete information.

HB 19 establishes in statute a license program and requires ADFG to collect the needed information for a period of 3 years. It does not impose any limitations on the number of guides or vessels in the state, nor does it affect their activities other than having to report and carry the documentation on their persons. The cost of licensing, data gathering, analysis and enforcement will be funded by the revenues generated from the license fees. Therefore, this program will be fiscally self-sustaining.

The bill establishes three options of guide licensure: (1) A sport fishing services operator license costs \$75 for sport fish guide business owners and is obtainable from ADFG. An Alaska business license, and proof of insurance are the only requirements to obtain an operators license. (2) A fishing guide license costs \$25 for sport fish guides and will be readily available through ADFG's vendor licensing system. This is modeled after how commercial crew licenses are obtained. (3) We have also provided a third alternative in

which an individual could obtain both guide and operator licenses as one combined license for \$75 from the department to accommodate the many one-person operations.

Each person who plans to engage in sport fish guiding, both on fresh and salt water, from a vessel or otherwise, will be required to purchase a license. The sport fish division of ADFG will develop reports which license holders will be required to submit. This will enable the state to build a data bank regarding the commercial guided sport fishery.

This legislation, then HB 175, passed the House last year with a vote of 36 to 4, but did not make it all the way through the Senate before the session ended. I feel that HB 19 is a piece of forward looking legislation which, 5, 10 and 20 years from now, the charter industry and our state's resources will benefit as a result of it's passage.

December 16, 1996

Senator Miller
Representative Phillips
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Senator Miller and Representative Phillips,

The Alaska Board of Fisheries has increasingly been discussing issues regarding the growth of the sport fishing guide industry in Alaska and its implications on fish allocation and management. Resolution of many of these issues, however, is hampered by the lack of information regarding this industry in many parts of Alaska. Both legislative and regulatory actions are required to remedy the lack of information to ensure informed decisions are made with respect to this industry. The Board of Fisheries can make regulatory changes, and is currently considering several proposals to accomplish this. One item that requires legislative action is the development of a statewide licensing and reporting system for sport fishing guide services and guides. Legislation to accomplish this was debated during the last legislative session in the form of HB 175, sponsored by Representative Austerman. Unfortunately, the legislation passed the State House but failed to pass the State Senate in 1996. The legislation has been pre-filed this session by Representative Austerman.

The Alaska Board of Fisheries supports this legislation. Both the Board and the task force believe that a comprehensive licensing system is needed to better define this diverse industry. The proposed licensing system provides needed definitions for companies and individuals who provide sport fishing guiding, chartering, and outfitting services. Through such definitions, it is hoped that the industry can be more fully identified and organized. It is also believed that the definitions will close loopholes in current definitions, thereby providing a level playing field for the industry and for better enforcement of regulations pertaining to sport fishing guides and charters. It is also believed that comprehensive licensing will add stability to this economically important industry which supports many jobs throughout Alaska. Insurance requirements for companies and safety requirements for guides are stipulated to assure that anglers utilizing this industry are protected and a professional level of service is maintained. The proposed license package also establishes fees and reporting requirements that provide the needed

foundation to help management agencies build a reasonable and stable regulatory environment to assure for the long term health of both the industry and the resource it depends upon.

We ask that you help move this legislation forward in both the House and the Senate. Please call me if you have any questions regarding this legislation or require my assistance. Thank you.

Sincerely,

Larry Engel

Chairman, Alaska Board of Fisheries

**Alaska Board of Fisheries
Guide Charter Task Force Members**

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January 30, 1997

Representative Alan Austerman
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS-3100)
Juneau, AK 99801-1182

Representative Austerman,

Thank you for attending the January 16, teleconference of the Guide-Charter Task Force where we discussed HB 19, which you introduced to establish statutory framework for licensing and reporting for the Alaska sport fishing guide industry. First, let me thank for your support in introducing this legislation, your support & concern for our industry and allowing the Task Force the opportunity to work with you to make the following suggestions.

The following is a summary of the motions the Task Force addressed pertaining to HB 19.

Reporting requirements: The Task Force recognizes, the need for better information to characterize their industry and its importance to Alaska. It also recognizes the need for better information to assure informed decisions regarding resource management. The Task Force is concerned about the proposed reporting requirements and the need for these requirements to be dynamic and have the ability to adjust to changing needs and data collection methods for the future.

For this reason, the task Force recommends a sunset clause after 3 years. This would allow the Department of Fish & Game and the Alaska Board of Fisheries time to evaluate the new information against other independent data to determine the accuracy and precision of the collected information and its applicability for management. After three years (one full state wide cycle of the BOF) the legislature can reevaluate the information collection requirement and either enhance it or eliminate it.

Experience Requirements: The Task Force recommends that the 3/5 year experience requirement be applied to the services (operators) license rather than the guide license as is currently stipulated in HB19. The group believed that this requirement best applied to the operator / management of a guide operation rather than the individual guide. This would also allow for guides to gain experience towards operating a guide business. Concern was also raised regarding the ability to hire sufficient numbers of qualified guides (USCG licensed) in larger lodge operations.

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January 30, 1997

Representative Alan Austerman
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS-3100)
Juneau, AK 99801-1182

page 2

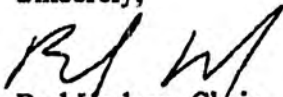
Vessel Licensing : The Task Force recommends in concept that HB19 be amended to repeal the current CFEC vessel licensing requirement for Sport fishing charters & guides as contained in AS 16.05.490 (a) and adopt similar licensing requirements, under the proposed licensing system in HB19. The Task Force felt that the current vessel licensing program under the CFEC accomplishes nothing other than providing funds for the CFEC. It also seems illogical to have the CFEC licensing vessels such as a 16 foot flat bottom boat located 100 miles from marine waters or a commercial fishery.

The Task Force believes this program should be managed by the Department of Fish & Game Sportfish division whereby specific information can be collected at the time of vessel registration/licensing. The current CFEC licensing forms gather little data for the Sportfishing Industry, the forms are geared towards collecting commercial net & troll fisheries data.

ADF&G Sportfish Division could have separate, but identifiable boat stickers or placards separate from the CFEC triangles. The revenues generated for the licensing could be used to collect data on the sportfishing industry that could best be used by ADF&G, the BOF and other land holding agencies who participate in the management of this industry. The current vessel licensing through CFEC provides very little for and about the industry.

If you have any questions regarding these motions, please feel free to contact either me or Doug Vincent Lang of the Dept. Of Fish & Game. Again, thank you for your help and your desire to produce good legislation.

Sincerely,



Bud Hodson, Chair
Guide Charter Task Force

Goodhand Charters

Prince William Sound

winter: P.O. 218, Ester, Alaska 99725 ph. 907-479-5562

summer: P.O. 970, Valdez, Alaska 99686 ph. 907-835-4333

Fishing -- Sightseeing -- Kayaking

To: Alan Austerman

Re: HB 19

Alan I would like very much to see this bill passed this session. Myself and the charter association representatives listed below just left the North Pacific Fisheries Management Council April 16 and we all agree that we would not be facing possible Federal limitations if HB 19 was in place. This bill gives a professional stance to our industry.

John Goodhand, President UCA

**Valdez Charter Assoc. John Goodhand
Sitka Charter Assoc. Kent Hall
Homer Charter Assoc. Bob Ward
Prince of Wales I. Larry Mc quarrie
Petersburg Charter Assoc. Barry Bracken
Deep Creek Assoc. Tim Evers
Juneau Charter operators assoc. Mike Bethers**

These people represent 378 Alaskan business



**Juneau Charter Boat
Operators Association**

P.O. Box 34522
Juneau, Alaska 99803
(907) 789-0165

April 24, 1997

Senator Allen Austerman
Alaska State Legislature
Juneau, Alaska 99801

Dear Senator Austerman:

The Juneau Charterboat Operators Association remains in support of HB19.

We realize that a lot has been stripped from the bill, however we still support registering and reporting by individuals working in the sportfish/guiding industry.

Reports could be turned in on an annual basis as this data would not be suitable for in season management. It would however, identify active operators and their level of activity.

We urge you to do your best to move this bill forward. Thank you very much.

Sincerely,

Mike Bethers, President
Juneau Charterboat Operators Association

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February 22, 1997

Mr. Austerman
House Special Committee on Fisheries
Juneau, Alaska

Dear Mr. Austerman,

We would like to state our support for HB-19 WORK DRAFT dated 2/18/97. This support represents the position of the following SE Alaskan charterboat associations:

Petersburg Charter Boat Association, Juneau Charter Boat Operators Association, Prince of Wales Charter Association, and Sitka Charterboat Operators Association

Our four organizations represent 192 vessels.

We are here in Ketchikan attending the Board of Fisheries meetings and representing our respective associations. Due to HB-73 being first on the agenda at the last teleconference and timing conflicts with the Board of Fisheries meetings, we were unable to testify. We will make every effort to attend the next teleconference.

Respectfully,

Stan Melton
President, Petersburg Charter Boat Association

Mike Becker
President, Juneau Charter Boat Operators Association

Jojo Olin
President, Prince of Wales Charter Association

Theresa M. Weir
Vice President, Sitka Charterboat Operators Association

cc: Board of Fisheries Chairman - Dr. White

To: Mr. Daviws, Committee members,

Re; HB 19 Testimony

From: Robert Ward, Box 631 Anchor Point, AK. 99556

I am a Halibut and Salmon recreational fishing guide operating from Homer, AK. I am presently the Secretary/Treasure for the Homer Charter Association, I am also serving on the Board of Fish Guide Task Force, and I am on the Board of Directors of the Alaska Sportfishing ~~Services~~ Industry Association, and in February of this year I was appointed to the Advisory Panel to the North Pacific Fishery Management Council representing Halibut Charter Industry members.

I am committed to the elevation of the level of proffessionalism within my industry. I have eleven years operation my own business and vessel and I know of no other Alaskan so dedicated to this cause.

I am comfortable with the amendments offered to HB 19 and I have faith in the Board of Fish process with minor exceptions. We need the inclusion of a vehicle to assure a balance of representation at the advisory committee between the commercial and the guide industries when decisions are acted upon.

License limitation is not a part of this bill nor is it intended to be.

HB 19 is about data collection of the participation levels by guides and the collection of effort and harvest levels of those utilizing our services.

We desparately need the State of Alaska to take this action to help the North Pacific Fishery Management Council in the management of the resources we provide access to. We are facing a commercially predominant management body that is very naive to the composition and profile of the recreational fishery in waters under their jurisdiction. They need this legislation to provide the information they need to k make their management decisions. I don't want under-informed and mis-informed resource managers to manage my state industry. I have the University of Alaska Institute of Social and Economic Research analysis of the Halibut Charter Industry here with me and it is 900 pages of assumptions and estimations with which the NPFMC is about to make a decision impacting my industry upon. Had HB 19 been available to us along with the information it would provide I would have a much easier job representing my industry. As an example it "estimates" between 500 and 2055 Halibut Charterboats operating from S\$ate of Alaska ports.

Please advance this bill in a form that will assure us that this tool will be available to both State and Federal resource managers.

I wish to appologize for the condition of my testimony, the LIO office in Anchorage only offered this typewriter to make my testimony presentable to you and without "delete" and Spellchecker I am at a disadvantage.

It is my desire and requirement of those I am representing that the above words are read into the testimony for the official record. I will have a schedule conflict with both the NPFMC and the LIO office, Anchorage so I will not be able to provide you with my voice but my thoughts are stated above.

Most respectfully,

Robert Ward

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To (H) <i>Finance</i>	From <i>Arch LIO</i>	
Co.	Co.	
Dept.	Phone # <i>258-8111</i>	
Fax # <i>465-2418</i>	Fax #	

Written (T)



Alaska State Legislature

Please enter into the record my testimony to the House Finance
committee name
committee on HB19 . dated 4/17/97
bill/subject

Please have someone call me
at 745-4965 regarding
"How broad are the powers to be
granted under par 6, page 5, lines
4, 5, 6?"

I would request the word
"biological" be inserted before
"information" on page 8 line 15

Signed: Bruce Knowles
Testifier
PO Box 573206
Representing (Optional)
Wasilla AK 99687
Address
745-4965
Phone No.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

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April 23, 1997

Honorable Alan Austerman
Chair House Fisheries Committee
House of Representatives
State Capitol, Room 434
Juneau, AK 99801-1182

Re: Section 1 of HB 19

Dear Representative Austerman:

This letter responds to the request of your aide, Amy Daugherty, for an explanation of why the Department of Law recommends that section 1 of CS HB 19 (FIN) be maintained. Section 1 amends AS 16.05.251(a)(12) adding the "sport fishing services industry" to the list of fisheries that the Board of Fisheries (Board) may regulate for traditional fishery purposes - conservation, development, and utilization of fishery resources.

Some persons believe that the changes to subsection (12) of AS 16.05.251(a) are unnecessary because the Board already has authority to regulate "guided sport fishing" and to allocate fishery resources among uses including "guided sport fishing." However, the legislative history of those authorities, and their historic interpretation by the Board, supports the conclusion that those provisions allow the Board to distinguish and regulate the *sport fishers who are guided*. The histories do not support a conclusion that the Board is authorized to regulate the *guides themselves or their industry* because the guides are not the persons who are engaged in *fishing*.

The Board has adopted some guide registration and reporting requirements, and does attempt to regulate guides as a "methods and means" for guided sport fishing (e.g., regulations prohibiting guides from fishing or retaining fish while clients are under their control). We believe that these regulations are defensible because they are reasonably necessary if the Board is to exercise its authority over guided sport fishing. However, the Board lacks explicit authority to adopt these types of regulations, and many guides assert that the Board does not have the authority to do so. Litigation over this authority is likely unless statutory changes are made.

The change to the language of AS 16.05.251(a)(12) in section 1 of CS HB 19 (FIN), gives the Board the same authority over the sport fishing services industry as it already has over those involved in commercial, sport, guided sport, subsistence, and personal use fishing, and removes any danger of successful

Honorable Alan Austerman
Chair House Fisheries Committee
Re: Section 1 of HB 19

April 23, 1997
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litigation against current Board regulations.

In addition to validating existing management practices, the change to AS 16.05.251(12) will also make it clear that the Board has the authority to directly regulate guides in ways similar to the ways that it manages individuals and vessels in other fisheries. For example, the Board will be able to: (1) adopt time and area closures for fishing by guides or registered guide vessels (current regulations prohibit guided sport fishing at some times and areas - but enforcement is difficult because in order to prove a violation it is necessary to show that there is a paying client on board); (2) adopt substantive area registration and reporting requirements on a regional basis (i.e., require advance registration, deny registration until the guide complies with reporting requirements, adopt exclusive or superexclusive registration requirements similar to those in many commercial herring and crab fisheries); and (3) adopt other regulations for guides that are needed in order to regulate guided sport fishing in an enforceable manner.

We believe that maintaining section 1 of the bill with its changes to AS 16.05.251(a)(12) is essential. The subsection will remove any doubt that the legislature intends for the Board to regulate a relatively new and rapidly expanding group of resource users - sport fishing guides and service providers - in the same manner that it manages those who participate in sport, commercial, subsistence, and personal use fisheries.

A deletion of the provisions of section 1 would be used by opponents of Board regulation of guides and of the guided sport industry to support arguments against the entire licensing and reporting requirement scheme set out in HB 19 as well as to attack existing Board management practices. Aided by legislative history and past Board practice, they could claim that the present authority in AS 16.05.251 allows the Board to regulate only clients, not the guides, other service providers, or the industry as a whole.

Sincerely yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Steven A. Daugherty
Assistant Attorney General

SAD:1mt

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cc: Geron Bruce, Dept. of Fish and Game
Pat Pourchot, Off. of the Governor
Chrystal Smith, Dept. of Law
Deborah Behr, Dept. of Law

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 24, 1997

The Honorable Eldon Mulder
House of Representatives
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Re: House Bill 19

Dear Representative Mulder:

You asked me for a list of areas in which the Board of Fisheries (Board) presently indirectly regulates guides through its existing authority over guided sport fishing and needs additional authority to insulate it from legal challenges or to make its regulations more enforceable. A full grant of authority to the Board to regulate participants in the sport fishing services industry as it does those involved in other fisheries (commercial, sport, personal use and subsistence) would be preferable and would provide the Board with the ability to adapt to changing circumstances in fisheries management. However, based on a preliminary review of the regulations there appear to be three key categories of regulatory authority that would insulate existing management strategies from legal challenge.

The three key authorities would be: (1) explicit authority to prohibit registered guides or registered guide vessels from fishing during closures to guided sport fishing (this would make prohibitions on guided sport fishing more enforceable); (2) explicit authority to adopt both statewide and area-specific registration and reporting requirements for guides; and (3) explicit authority to impose restrictions on guides while accompanying clients (fishing, possession, and retention prohibitions). Specific provisions relating to these authorities will not be needed if section 1 of CSHB 19(FIN) is retained.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 

Steven A. Daugherty
Assistant Attorney General

SAD:lmt

H:\WP\SD\BILLS\FY97\MULDER.423

TONY KNOWLES, GOVERNOR

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The Honorable Eldon Mulder
House of Representatives
Re: House Bill 19

April 24, 1997
Page 2

cc: Representative Alan Austerman
Representative Ivan Ivan
Geron Bruce, Dept. of Fish and Game
Pat Pourchot, Off. of the Governor
Chrystal Smith, Dept. of Law
Deborah Behr, Dept. of Law

STATE OF ALASKA

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March 26, 1997

Ms. Amy Daugherty
Fisheries Committee Assistant
Office of Representative Austerman
House of Representatives
State Capitol, Room 434
Juneau, AK 99801-1182

Re: Section 1 of HB 19

Dear Ms. Daugherty:

You have asked whether the Department of Law recommends that subsection (17) of the present committee substitute for House Bill 19 be maintained. That subsection gives the Board of Fisheries specific authority to regulate the "sport fishing services industry" for traditional fishery purposes - conservation, development, and utilization of fishery resources. Besides clarifying that the Board may impose mandatory reporting requirements on service providers, the new authority will enable it to regulate them in other ways. For example, the Board could adopt substantive registration requirements (e.g., exclusive or superexclusive registration), deny registration until guides comply with reporting requirements, and require knowledge of proper fish identification handling.

Subsection 17 also adds two unique purposes for regulating the sport fish service industry - "the safety of the clients of the industry or the protection of the integrity of the industry." It would enable the Board to require experience, knowledge, training, or equipment for persons who provide services to particular fisheries or areas.

The present statute, without section 17, gives the Board power to regulate the harvesters and the harvesting of fishery resources for conservation, development, and utilization. AS 16.05.251(a). Our attorneys have advised the Board that it does not have authority to regulate other persons, regulate other activities, or regulate for other purposes. For example, the Board does not have the authority to regulate fish processing once the

Ms. Amy Daugherty
Fisheries Committee Assistant
Office of Representative Austerman
Re: Section 1 of HB 19

March 26, 1997
Page 2

fish have left the harvesters' control. Although the Board may regulate the use of fish spotters (because the courts have concluded that spotters are a type of fishing gear), it may only regulate for their effect on harvesting, not for their personal safety. The Board has consistently followed this advice by not regulating outside of those powers.

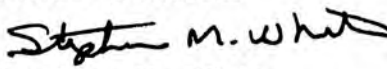
Some persons believe that subsection (17) is not needed because the Board already has authority to classify "guided sport fish" as a category for regulatory purposes, has authority to regulate "guided sport fishing," and has authority to allocate fishery resources among uses including "guided sport" AS 16.05.251(a) (12), (6), (e). However, the legislative history of those authorities, and their historic interpretation by the Board, supports the conclusion that those provisions allow the Board to distinguish and regulate the *sport fishers who are guided*. The histories do not support a conclusion that the Board is authorized to regulate the *guides themselves or their industry*.

We believe that maintaining subsection (17) in the bill is essential. The subsection will remove any doubt that the legislature intends for the Board to regulate new resource users - sport fishing guides and service providers - and that it intends for the Board to regulate them for two purposes that are distinct from the purposes for regulating other users - for safety of their clients and for protecting the integrity of that industry.

Deleting subsection (17) will give a powerful legal weapon to persons who would attack the entire scheme set out in HB 19, the Board's regulation of the sport fishing services industry. Aided by legislative history and past Board practice, they could claim that the present authority in AS 16.05.251 allows the Board to regulate only clients, not the guides, other service providers, or the industry as a whole.

Sincerely yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Stephen M. White
Assistant Attorney General

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cc: Geron Bruce, ADF&G

Sportfish charter operators support state licensing bill

By LORI THOMSON

THE JUNEAU EMPIRE

Lodge owner Doug Unruh has watched the ranks of charter operators mushroom in the past 15 years. Now, he's hoping a bill passed by the state House on Wednesday will help slow that down.

House Bill 19 requires a new type of license for sport fishing charter businesses and calls for reporting catch data for three years after passage of the bill. Rep. Alan Austerman, a Kodiak Republican, sponsored the legislation, which was passed by the House 31-6 Wednesday and is headed to the Senate.

"I think it's time. Something needs to happen to limit the number of participants in this industry," said Unruh, owner of Bluewater Charters in Juneau and Anglers Choice Lodge in Elfin Cove.

The Juneau Charter Boat Operators Association supports the bill, said Unruh, who is a board member for the group.

Under the bill, licenses for op-

I think it's time. Something needs to happen to limit the number of participants in this industry.

Doug Unruh

erators of sport fishing services, such as the owner of a charter business, would cost \$75 for residents and \$225 for nonresidents. For the same price, they would be allowed to guide. Guides, who accompany or direct the angler for the fishing trip, would pay \$25 for a license if they're residents and \$75 if they're nonresidents.

Charter operators would be required to have \$100,000 in insurance, assets or a bond.

The insurance won't be a problem for those who make a living

in the business, because they already have such coverage, Unruh said.

But the legislation could hurt the little guy who charters only a handful of trips a year, said Bob Winters, owner of Sea Marine Training Service, which trains charter operators.

"It's more of their money they're not going to see," Winters said.

Austerman said the intent of the bill is to get data on the effects of the charter industry on fisheries.

"We do not have complete information about who is actively engaged in sportfish guiding, how many clients are served, what catch rates are, and what rivers, streams and marine waters are being utilized," Austerman said.

Juneau's Reps. Bill Hudson, a Republican, and Kim Elton, a Democrat, supported the bill.

Elton said lack of data causes biologists to guess at harvest rates — especially a problem because of the treaty with Canada that caps salmon harvests.

Juneau
Empire
May 1, '97