

SB

303

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/6/04

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3-8-04

Resources Committee considered SENATE BILL NO. 303

SB 303 BIG GAME GUIDE BOARD & SERVICES

"An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 303 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
JCED	2/10/04	✓			
F+G	2/19/04			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Thomas Wapow</i>	✓			
<i>Ben Stearns</i>	✓			
CHAIR: <i>Sally O'Connell</i>			✓	

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 303
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Big Game Guide Board RDU Occupational Licensing (117)
and Services Component Occupational Licensing
 Sponsor Senate Rules by Request of LB&A
 Requester Senate Resources Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel	30.0	30.0	30.0	30.0	30.0	30.0
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	30.0	30.0	30.0	30.0	30.0	30.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	30.0	30.0	30.0	30.0	30.0	30.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	30.0	30.0	30.0	30.0	30.0	30.0
TOTAL	30.0	30.0	30.0	30.0	30.0	30.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 303 establishes the Big Game Commercial Services Board consisting of seven members who will assume responsibility for licensing and examinations. This fiscal note provides travel funding and assumes the following board composition: 2 members from Southeast, 2 members from Anchorage, 2 members from Kodiak, 1 member from Fairbanks; with the assumption the Board will meet at least four times each year, at four days per event to cover meeting and examinations. Other operating costs for the licensing of guides is already included in the Governor's FY05 budget at \$91.7. In accordance with the self-sufficiency requirement of AS 08.01.065(c) the new costs of \$30.0 will be funded by licensing fees.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by: Edgar Blatchford, Commissioner
 Agency: Department of Community and Economic Development

Phone (907) 465-2144
 Date/Time 2/16/04 11:17 AM
 Date 2/16/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: S.B. 303
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Relating to the Big Game Commercial RDU Wildlife Conservation
Services Board and to the Regulation Component Wildlife Conservation
 Sponsor Senate Rules Committee
 Requester Senate Resources Committee Component No. 473

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone 465-6137
 Division: Legislative Liaison Date/Time 2/19/04 8:35 a.m.
 Approved by: Commissioner Kevin Duffy Date 2/19/2004
 Agency: Alaska Department of Fish & Game



SENATOR SCOTT OGAN 23RD Alaska State Legislature

Senate District H Lazy Mountain * Butte * Chugiak * Peters Creek * Fairview Loop
Knik-Goose Bay * Big Lake * Houston * Willow * Talkeetna * Trapper Creek

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Senator_Scott_Ogan@legis.state.ak.us Http://www.akrepublicans.org/ogan

FACSIMILE TRANSMITTAL SHEET

TO: <u>Leg Legal</u>	FROM: <u>Linda Hay - Sen Res.</u>
COMPANY:	DATE: <u>3-9-04</u>
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER: <u>2</u>
PHONE NUMBER:	RE: <u>CS SB 303 Utermohle</u>

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Attached is a sheet with the amendments to walk draft CS SB 303 as adopted by the Senate Resources Comm.

Please send over a draft for review as soon as possible.

Thank You -

Amendments for CS SB 303 23-LS1655\D

✓ Page 2 line 9 should read: two members who represent private landholders affected by guided hunting activities or transportation services and who do not hold a license under this chapter; and

✓ Page 7 line 20 should read: possesses a current first aid card.....

✓ Page 11 line 29 should read: is convicted of a violation of any state or federal.....

✓ Page 12 line 9 should read: has acted unethically (incompetently)

Page 12 line 28 should read: hearing that the license was obtained through fraud, deceit, or (innocent) misrepresentation. ✓ ✕

✓ Page 14, line 18 should read: a valid Alaska hunting license in actual possession;

✓ Page 18 line 26 delete: (wolverine)

✓ Page 18 line 28 delete: (wolverine)

Conceptual Amendment: Page 13, lines 24 – 26: person who is licensed under this chapter to knowingly fail to (promptly) report to the Department of Public Safety, unless there are no reasonable means of communication available and in no event later than 20 days,..... ✕

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 27, 2004

SUBJECT: Sectional Summary of CSSB 303(); An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services (Work Order No. 23-LS1655D)

TO: Representative Ralph Samuels
Attn: Henry Webb

FROM: George Utermohle
Legislative Counsel

You have requested a sectional summary of CSSB 303(); an Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Throughout the bill wherever the terms "registered guide" or "master guide" are used in statute they are replaced by "registered guide-outfitter" and "master guide-outfitter," respectively.

Section 1 of the bill amends AS 08.01.010(7) to provide that the centralized licensing provisions of AS 08.01 apply to the Big Game Commercial Services Board that is created in sec. 3 of the bill.

Section 2 of the bill sets out the sunset date of the Big Game Commercial Services Board as June 30, 2007.

Section 3 of the bill adds new sections to AS 08.54 to create the Big Game Commercial Services Board, to set out the qualifications of the seven members of the board, and to provide that the board is to receive assistance, information, and data from certain state agencies.

Section 4 of the bill amends AS 08.54.600 to provide for the transfer of responsibility for licensing and regulation of big game commercial services from the Department of Community and Economic Development to the Big Game Commercial Services Board

and to eliminate the roster of registered guides and amend provisions relating to examinations for registered guide-outfitters.

Sections 5 of the bill amends AS 08.54.600 by adding a new subsection authorizing the Big Game Commercial Services Board to adopt regulations regarding professional codes of conduct, written contracts with clients of registered guide-outfitters and transporters, and inspections of contracts by the Department of Community and Economic Development.

Section 6 of the bill amends AS 08.54.605(a) to amend provisions regarding eligibility for guide and transporter licenses if a person has been convicted of violating certain statutes or regulations and to insert the terms "registered guide-outfitter" and "master guide-outfitter" in lieu of "registered guide" or "master guide," respectively.

Section 7 of the bill amends AS 08.54.605(c) to insert the terms "registered guide-outfitter" and "master guide-outfitter" in lieu of "registered guide" or "master guide," respectively.

Section 8 of the bill amends AS 08.54.610 to provide for the transfer of responsibility for licensing and regulation of registered guides from the Department of Community and Economic Development to the Big Game Commercial Services Board and to replace the terms "registered guide" or "master guide" with "registered guide-outfitter" and "master guide-outfitter," respectively.

Section 9 of the bill amends AS 08.54.620 to provide for the transfer of responsibility for licensing and regulation of class-A assistant guides from the Department of Community and Economic Development to the Big Game Commercial Services Board, to amend the requirements for a class-A assistant guide license, and to replace the terms "registered guide" or "master guide" with "registered guide-outfitter" and "master guide-outfitter," respectively.

Section 10 of the bill amends AS 08.54.630 to provide for the transfer of responsibility for licensing and regulation of assistant guides from the Department of Community and Economic Development to the Big Game Commercial Services Board, to amend the requirements for an assistant guide license, and to replace the term "registered guide" with "registered guide-outfitter."

Section 11 of the bill amends AS 08.54.640(a) to replace the term "registered guide" with "registered guide-outfitter."

Section 12 of the bill amends AS 08.54.640(b) to transfer authority from the Department of Community and Economic Development to the Big Game Commercial Services Board to adopt regulations regarding the suspension of guide licenses held by persons who are or become law enforcement officers and to replace the term "registered guide" with "registered guide-outfitter."

Section 13 of the bill amends AS 08.54.650(c) to provide that the Big Game Commercial Services Board may specify the information to be supplied in transporter activity reports.

Section 14 of the bill amends AS 08.54.660 to provide that registered guide-outfitters and transporters must sign an affidavit that all required reports have been submitted to the Department of Community and Economic Development before their licenses can be renewed and to replace the term "registered guide" with "registered guide-outfitter."

Sections 15 and 16 of the bill amend AS 08.54.670 and 08.54.680(b), respectively, to replace the term "registered guide" with "registered guide-outfitter."

Sections 17 and 18 of the bill amend AS 08.54.710(a) and (b), respectively, to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54 and to amend the list of acts for which the board may impose disciplinary sanctions.

Section 19 of the bill amends AS 08.54.710(c) to raise the maximum civil fine that can be imposed by the Big Game Commercial Services Board from \$5,000 to \$10,000 and to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Section 20 of the bill amends AS 08.54.710(d) to provide that the Big Game Commercial Services Board is responsible for imposing certain disciplinary sanctions upon persons licensed under AS 08.54.

Sections 21, 22, and 23 of the bill amend AS 08.54.710(e), (h), and (i), respectively, to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Section 24 of the bill amends AS 08.54.720(a) to provide that it is unlawful for a person licensed under AS 08.54 to commit or aid in the commission of a violation of a state or federal wildlife or game, guiding, or transportation services statute, to fail to report a violation of a state or federal wildlife or game, guiding, or transportation services statute by a client or employee within 20 days after the violation, or to remain on state, federal or private land without prior approval. Also, the term "registered guide" is replaced with "registered guide-outfitter" in several places.

Section 25 of the bill amends AS 08.54.720(f) to provide that the Big Game Commercial Services Board is responsible for suspending guide licenses and transporter licenses when ordered by a court.

Section 26 of the bill amends AS 08.54.730 to provide that the Big Game Commercial Services Board may obtain an injunction to halt certain violations of AS 08.54.

Section 27 of the bill amends AS 08.54.740 to provide that a registered guide-outfitter or transporter is equally responsible for violations of federal wildlife laws by their employees and to replace the term "registered guide" with "registered guide-outfitter."

Section 28 of the bill amends AS 08.54.750 to prohibit registered guide-outfitters from withdrawing or amending a use area registration during a calendar year, to allow the Big Game Commercial Services Board to amend the boundaries of use areas, and to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and with the transfer of authority from the Department of Community and Economic Development to the Big Game Commercial Services Board.

Section 29 of the bill adds new subsections to AS 08.54.750 to provide that registered guide-outfitters may register for additional use areas to guide hunts for certain big game predator species under certain conditions and that transporters may be required to provide advance notice to the Department of Community and Economic Development before providing transportation services in a use area.

Section 30 of the bill amends AS 08.54.760 to provide that the Department of Community and Economic Development may make hunt records and activity reports available to federal and other law enforcement agencies and to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and with the transfer of authority from the Department of Community and Economic Development to the Big Game Commercial Services Board.

Section 31 of the bill amends AS 08.54.770 to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and to clarify that the Department of Fish and Game is responsible for issuing hunting licenses.

Section 32 of the bill amends AS 08.54.790 to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and to add a definition of "board."

Sections 33 - 37 amend AS 16.05.407(a), 16.05.407(f), 16.05.408(a), 16.05.408(c), and AS 23.10.055, respectively, to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter."

Section 38 of the bill amends AS 39.50.200(b) by adding the Big Game Commercial Services Board to the list of boards and commissions whose members are subject to public officers financial disclosure.

Section 39 of the bill amends AS 41.23.420(d) by substituting the Big Game Commercial Services Board for a reference to the Department of Community and Economic Development.

Representative Ralph Samuels
February 27, 2004
Page 5

Section 40 of the bill amends AS 44.62.330(a)(35) by substituting the Big Game Commercial Services Board for a reference to the Department of Community and Economic Development in the list of agencies that are subject to the administrative adjudication provisions of the Administrative Procedure Act.

Section 41 of the bill provides for the initial appointment of the members of the Big Game Commercial Services Board.

Section 42 of the bill provides for the issuance of registered guide-outfitter licenses and master guide-outfitter licenses to persons who currently hold registered guide licenses and master guide licenses.

Section 43 of the bill is the Savings Clause.

Section 44 of the bill provides that secs. 3, 41, 42, and 43 of the bill take effect immediately.

Section 45 of the bill provides that the remaining provisions of the bill take effect on the day that the Big Game Commercial Services Board holds its first meeting.

If I may be of further assistance, please advise.

GU:med
04-246.med

*adopted &
amend
3-5-04*

23-LS1655\D
Utermohle
2/26/04

CS FOR SENATE BILL NO. 303()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): THE SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Big Game Commercial Services Board and to the regulation of
2 big game hunting services and transportation services; and providing for an effective
3 date."

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

5 * Section 1. AS 08.01.010(7) is amended to read:

6 (7) Big Game Commercial Services Board (AS 08.54.591)
7 [REGULATION OF BIG GAME GUIDES AND TRANSPORTERS UNDER
8 AS 08.54];

9 * Sec. 2. AS 08.03.010(c) is amended by adding a new paragraph to read:

10 (22) Big Game Commercial Services Board (AS 08.54.591) -- June 30,
11 2007.

12 * Sec. 3. AS 08.54 is amended by adding new sections to article 1 to read:

13 **Sec. 08.54.591. Creation and membership of board.** (a) For the purposes
14 of licensing and regulating the activities of providers of commercial services to big

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game hunters in the interest of the state's wildlife resources, there is created the Big Game Commercial Services Board. For administrative purposes, the board is in the Department of Community and Economic Development.

(b) The board consists of seven members as follows:

- (1) two members who are current, licensed registered guide-outfitters;
- (2) one member who is a licensed transporter;
- (3) one member of the Board of Game who is chosen by the Board of Game and who does not hold a guide or transport license; *alder*
- (4) two members who represent private landholders and who do not hold a license issued under this chapter; and
- (5) one public member.

Sec. 08.54.595. Board assistance. The Department of Fish and Game, Department of Natural Resources, Department of Law, and Department of Public Safety shall provide the board with information, data, or technical assistance requested by the board for the purposes of licensing and regulating the activities of providers of commercial services to big game hunters.

* **Sec. 4.** AS 08.54.600 is amended to read:

Sec. 08.54.600. Duties of board [DEPARTMENT]. (a) The board [DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT] shall

(1) prepare and [,] grade [, AND ADMINISTER]

(A) a qualification examination for a registered guide-outfitter [GUIDE] license that requires demonstration that the applicant is qualified generally to provide guided and outfitted hunts and, in particular, possesses knowledge of fishing, hunting, and guiding laws and regulations; and

(B) a certification examination for each game management unit in which the registered guide-outfitter [GUIDE] intends to provide big game hunting services; the examination must require demonstration that the registered guide-outfitter [GUIDE] is qualified to provide guided and outfitted hunts in the game management unit for which the registered guide-outfitter [GUIDE] seeks to be certified and, in particular, must require demonstration that the registered guide-outfitter [GUIDE] possesses knowledge of the

1 terrain, transportation problems, game, and other characteristics of the game
2 management unit;

3 (2) authorize the issuance of [ISSUE] registered guide-outfitter
4 [GUIDE], master guide-outfitter [GUIDE], class-A assistant guide, assistant guide,
5 and transporter licenses;

6 (3) [COMPILE, MAINTAIN, AND PUBLISH AN ANNUAL
7 ROSTER OF REGISTERED GUIDES AND MASTER GUIDES LICENSED
8 UNDER THIS CHAPTER; A PERSON LISTED IN THE ROSTER WHOSE
9 LICENSE IS REVOKED OR SUSPENDED SHALL BE REMOVED FROM THE
10 ROSTER WHILE THE PERSON'S LICENSE IS REVOKED OR SUSPENDED;

11 (4)] impose appropriate disciplinary sanctions on a licensee under
12 AS 08.54.600 - 08.54.790;

13 (4) [(5)] require an applicant for issuance or renewal of any class of
14 guide license or of a transporter license to state in a written and signed document
15 whether the applicant's right to obtain, or exercise the privileges granted by, a hunting,
16 guiding, outfitting, or transportation services license is revoked or suspended in this
17 state or another state or in Canada;

18 (5) [(6)] regularly disseminate information regarding examinations and
19 other qualifications for all classes of guide licenses to residents of the rural areas of the
20 state;

21 (6) [(7)] adopt procedural and substantive regulations required by this
22 chapter;

23 (7) provide for administration of [(8) ADMINISTER] examinations
24 for registered guide-outfitters [GUIDES] at least twice a year [; AN
25 EXAMINATION MAY NOT BE GIVEN WITHIN 90 DAYS AFTER THE
26 PREVIOUS EXAMINATION; AT LEAST ONCE EVERY OTHER YEAR THE
27 DEPARTMENT SHALL GIVE THE EXAMINATION AT A LOCATION OTHER
28 THAN ANCHORAGE].

29 (b) The board [DEPARTMENT] shall provide for administration of an oral
30 examination for a registered guide-outfitter [GUIDE] license or for a game
31 management unit certification if requested at the time of application for the license

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[AN APPLICANT EXPERIENCES A SPECIFIC LANGUAGE DISABILITY].

* Sec. 5. AS 08.54.600 is amended by adding a new subsection to read:

(c) The board may adopt regulations as the board considers appropriate to

(1) establish a code of ethics for professions regulated by the board;

(2) require registered guide-outfitters and transporters to enter into written contracts to provide big game hunting services and transportation services to clients;

(3) authorize the department to request a copy of a big game hunting services or transportation services contract entered into by a person licensed under this chapter.

* Sec. 6. AS 08.54.605(a) is amended to read:

(a) Notwithstanding AS 08.54.610, 08.54.620, 08.54.630, 08.54.650, and 08.54.660, a person may not receive or renew a registered guide-outfitter [GUIDE] license, master guide-outfitter [GUIDE] license, class-A assistant guide license, assistant guide license, or transporter license if

(1) the person has been convicted of

(A) a violation of a state or federal hunting, guiding, or transportation services statute or regulation [WITHIN THE LAST FIVE YEARS] for which the person was

(i) [FINED MORE THAN \$1,000 OR] imprisoned for more than five days within the previous five years;

(ii) fined more than \$1,000 in the previous 12

months;

(iii) fined more than \$3,000 in the previous 36

months; or

(iv) fined more than \$5,000 in the previous 60

months;

(B) a felony within the last five years; or

(C) a felony offense against the person under AS 11.41 within the last 10 years; or

(2) the person's right to obtain, or exercise the privileges granted by, a

Gives board to what with audit

Then approach

adds flexibility

1 hunting, guiding, outfitting, or transportation services license is suspended or revoked
2 in this state or another state or in Canada.

3 * Sec. 7. AS 08.54.605(c) is amended to read:

4 (c) A person may not receive a certification for a game management unit if the
5 person is prohibited by (a) of this section from receiving or renewing a registered
6 guide-outfitter [GUIDE] license or master guide-outfitter [GUIDE] license.

7 * Sec. 8. AS 08.54.610 is amended to read:

8 **Sec. 08.54.610. Registered guide-outfitter [GUIDE] license.** (a) A natural
9 person is entitled to a registered guide-outfitter [GUIDE] license if the person

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

11 (2) has practical field experience in the handling of firearms, hunting,
12 judging trophies, field preparation of meat and trophies, first aid, photography, and
13 related guiding and outfitting activities;

14 (3) either

15 (A) has passed the qualification examination prepared [AND
16 ADMINISTERED] by the board [DEPARTMENT] under AS 08.54.600; or

17 (B) provides evidence of 25 years of experience as a class-A
18 assistant guide or class-A assistant guide-outfitter;

19 (4) has passed a certification examination prepared [AND
20 ADMINISTERED] by the board [DEPARTMENT] under AS 08.54.600 for at least
21 one game management unit;

22 (5) has legally hunted big game in the state for part of each of any five
23 years in a manner directly contributing to the person's experience and competency as a
24 guide;

25 (6) has been licensed as and performed the services of a class-A
26 assistant guide or assistant guide, or of a class-A assistant guide-outfitter or assistant
27 guide-outfitter under former AS 08.54.300 - 08.54.590, in the state for a part of each
28 of three years;

29 (7) is capable of performing the essential duties associated with
30 guiding and outfitting;

31 (8) has been favorably recommended in writing by eight big game

1 hunters whose recommendations have been solicited by the department from a list
2 provided by the applicant, including at least two favorable recommendations for each
3 year of any three years during which the person was a class-A assistant guide or
4 assistant guide, or a class-A assistant guide-outfitter or assistant guide-outfitter under
5 former AS 08.54.300 - 08.54.590;

6 (9) has provided proof of financial responsibility if required by the
7 department under AS 08.54.680; and

8 (10) has applied for a registered guide-outfitter [GUIDE] license on a
9 form provided by the department and paid the license application fee and the
10 registered guide-outfitter [GUIDE] license fee.

11 (b) A master guide-outfitter [GUIDE] license authorizes a registered guide-
12 outfitter [GUIDE] to use the title master guide-outfitter [GUIDE], but is for all other
13 purposes under this chapter a registered guide-outfitter [GUIDE] license. A natural
14 person is entitled to receive a renewable master guide-outfitter [GUIDE] license if
15 the person

16 (1) is, at the time of application for a master guide-outfitter [GUIDE]
17 license, licensed as a registered guide-outfitter [GUIDE] under this section;

18 (2) has been licensed in this state as a registered guide or a guide-
19 outfitter, under former AS 08.54.010 - 08.54.240, former AS 08.54.300 - 08.54.590, or
20 this chapter, for at least 12 of the last 15 years, including the year immediately
21 preceding the year in which the person applies for a master guide-outfitter [GUIDE]
22 license;

23 (3) submits a list to the department of at least 25 clients for whom the
24 person has personally provided guiding or outfitting services and the person receives a
25 favorable evaluation from 10 of the clients selected from the list by the department;
26 and

27 (4) applies for a master guide-outfitter [GUIDE] license on a form
28 provided by the department and pays the application fee, if any.

29 (c) A registered guide-outfitter [GUIDE] may contract to guide or outfit
30 hunts for big game and may provide transportation services, personally or through an
31 assistant, to big game hunters who are clients of the registered guide-outfitter

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[GUIDE].

(d) A person who is licensed as a registered guide-outfitter [GUIDE] may be employed by another registered guide-outfitter [GUIDE] to perform the functions of a registered guide-outfitter [GUIDE] or class-A assistant guide in the game management unit for which the person is certified under AS 08.54.600 or of an assistant guide in any game management unit.

(e) A registered guide-outfitter [GUIDE] who contracts for a guided hunt shall be

(1) physically present in the field with the client at least once during the contracted hunt; and

(2) in the field and participating in the contracted hunt, unless the hunt is being conducted by a class-A assistant guide or a registered guide-outfitter [GUIDE] employed by the contracting registered guide-outfitter [GUIDE].

* Sec. 9. AS 08.54.620 is amended to read:

Sec. 08.54.620. Class-A assistant guide license. (a) A natural person is entitled to a class-A assistant guide license if the person

(1) is 21 years of age or older;

(2) applies for a class-A assistant guide license on a form provided by the department and pays the license application fee and the license fee; [AND]

(3) possesses a ^{Current} first aid card issued by the Red Cross or a similar organization; and

(4) either

Amend #1

(A) has

(i) been employed during at least three calendar years as any class of licensed guide in the game management unit for which the license is sought; and

(ii) at least 10 years' hunting experience in the state; military service outside of the state for not more than three years shall be accepted as part of the required 10 years' hunting experience; [OR]

(B) provides

(i) evidence that the person physically resides in the

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game management unit in which the person is to be employed;

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

(iii) a written recommendation from a registered guide-outfitter [GUIDE, STATE TROOPER, STATE FISH AND WILDLIFE LAW ENFORCEMENT OFFICER, OR STATE FISH OR GAME BIOLOGIST WHO IS FAMILIAR WITH THE PERSON OR] who intends to employ the person as a class-A assistant guide; or

(C) provides evidence that the person

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

(ii) has at least 10 years' hunting experience in the state; military service outside of the state for not more than three years shall be accepted as part of the required 10 years' hunting experience; and

(iii) has passed a class-A assistant guide training course approved by the board.

(b) A class-A assistant guide

(1) may not contract to guide or outfit a big game hunt;

(2) shall be employed by and under the supervision of a registered guide-outfitter [GUIDE] who has contracted with the client for whom the class-A assistant guide is conducting the hunt;

(3) may take charge of a camp and provide [CONDUCT] guide services [ACTIVITIES] from the camp without the contracting registered guide-outfitter [GUIDE] being in the field and participating in the contracted hunt if the contracting registered guide-outfitter [GUIDE] is supervising the guiding activities;

(4) may not perform functions of a class-A assistant guide outside of the game management unit for which the license is issued; and

existing lang.

1 (5) may be employed by a registered guide-outfitter [GUIDE] to
2 perform the functions of an assistant guide in any game management unit.

3 * Sec. 10. AS 08.54.630 is amended to read:

4 Sec. 08.54.630. Assistant guide license. (a) A natural person is entitled to an
5 assistant guide license if the person

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

7 (2) has legally hunted big game in the state during two calendar years;

8 (3) possesses a first aid card issued by the Red Cross or a similar
9 organization;

10 (4) either

11 (A) obtains a written recommendation from a registered guide-
12 outfitter [GUIDE, STATE TROOPER, STATE FISH AND WILDLIFE LAW
13 ENFORCEMENT OFFICER, OR STATE FISH OR GAME BIOLOGIST
14 WHO IS FAMILIAR WITH THE PERSON OR] who intends to employ the
15 person as an assistant guide; or

16 (B) provides evidence that the person passed an assistant
17 guide training course approved by the board; and

18 (5) applies for an assistant guide license on a form provided by the
19 department and pays the license application fee and the license fee.

20 (b) An assistant guide

21 (1) may not contract to guide or outfit a big game hunt;

22 (2) shall be employed by a registered guide-outfitter [GUIDE] and
23 under the supervision of a registered guide-outfitter [GUIDE] or class-A assistant
24 guide while the assistant guide is in the field on guided hunts; and

25 (3) may not take charge of a camp or provide [CONDUCT] guide
26 services [ACTIVITIES] unless the contracting registered guide-outfitter [GUIDE] is
27 in the field and participating in the contracted hunt or a registered guide-outfitter
28 [GUIDE] or class-A assistant guide employed by the contracting guide is physically
29 present and supervising the hunt.

30 * Sec. 11. AS 08.54.640(a) is amended to read:

31 (a) Notwithstanding AS 08.54.610 - 08.54.630 and except as provided in (b)

1 of this section, a person may not hold, or earn experience credits to apply for, a
2 registered guide-outfitter [GUIDE] license under this chapter, while the person is a
3 law enforcement officer and for three months after terminating the person's status as a
4 law enforcement officer.

5 * Sec. 12. AS 08.54.640(b) is amended to read:

6 (b) A registered guide-outfitter [GUIDE] license, class-A assistant guide
7 license, or assistant guide license issued under this chapter, or under former provisions
8 of AS 08.54.300 - 08.54.590, after May 16, 1992, is suspended if the person to whom
9 the license is issued subsequently becomes a law enforcement officer. A person
10 whose license is subject to suspension under this subsection shall notify the
11 department that the person has become a law enforcement officer within 30 days after
12 becoming a law enforcement officer. The suspension of a license under this
13 subsection remains in effect until three months have elapsed from the date on which
14 the licensee provides written notification to the department of the fact that the person
15 is no longer a law enforcement officer. A person whose license is suspended under
16 this subsection is not required to renew the license or pay license renewal fees for the
17 period of suspension. Once a suspension of a license is terminated, the licensee may
18 provide, without further payment of a guide license fee, the guide services authorized
19 by the license for the remainder of the licensing period in which the suspension is
20 terminated. Notwithstanding other provisions of this subsection, if a person whose
21 license is suspended under this subsection fails to notify the department within one
22 year after the person is no longer a law enforcement officer, the person's license lapses
23 and the person is eligible for reissuance of the license only as provided in
24 AS 08.54.670. The board [DEPARTMENT] may adopt regulations to implement this
25 subsection.

26 * Sec. 13. AS 08.54.650(c) is amended to read:

27 (c) A transporter shall provide an annual activity report on a form provided by
28 the department. An activity report must contain all information required by the board
29 [DEPARTMENT] by regulation.

30 * Sec. 14. AS 08.54.660 is amended to read:

31 **Sec. 08.54.660. Renewal of guide and transporter licenses.** (a) An

1 applicant for renewal of a registered guide-outfitter [GUIDE], class-A assistant
2 guide, assistant guide, or transporter license shall submit

3 (1) a request for renewal of the license on a form provided by the
4 department; and

5 (2) the appropriate license fee for the next licensing period.

6 (b) The department may not renew a registered guide-outfitter [GUIDE]
7 license under this section unless all fees have been paid in full and the registered
8 guide-outfitter has signed an affidavit that all hunt records due during the term of
9 the current license have been filed with the department.

10 (c) The department may not renew a transporter license unless all fees have
11 been paid in full and the transporter has signed an affidavit that all activity reports
12 due during the term of the current license have been filed with the department.

13 * Sec. 15. AS 08.54.670 is amended to read:

14 Sec. 08.54.670. Failure to renew. The department may not issue a license to
15 a person who held a registered guide-outfitter [GUIDE], class-A assistant guide, or
16 assistant guide license and who has failed to renew the license under this chapter for
17 four consecutive years unless the person again meets the qualifications for initial
18 issuance of the license.

19 * Sec. 16. AS 08.54.680(b) is amended to read:

20 (b) If a registered guide-outfitter [GUIDE], class-A assistant guide, or an
21 assistant guide personally pilots an aircraft to transport clients during the provision of
22 big game hunting services, the registered guide-outfitter [GUIDE], class-A assistant
23 guide, or assistant guide shall have a commercial pilot's rating or a minimum of 500
24 hours of flying time in the state.

25 * Sec. 17. AS 08.54.710(a) is amended to read:

26 (a) The board [DEPARTMENT] may impose a disciplinary sanction in a
27 timely manner under (c) of this section if the board [DEPARTMENT] finds after a
28 hearing, that a licensee

29 (1) is convicted of a violation of ^{any} a state or federal statute or regulation
30 relating to hunting or to provision of big game hunting services or transportation
31 services; [OR]

Amend #2

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- (2) has failed to file records or reports required under this chapter;
- (3) has negligently misrepresented or omitted a material fact on an application for any class of guide license or a transporter license; or
- (4) has breached a contract to provide big game hunting services or transportation services to a client.

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* Sec. 18. AS 08.54.710(b) is amended to read:

(b) The board [DEPARTMENT] may impose a disciplinary sanction in a timely manner under (c)(3) - (7) of this section if the board [DEPARTMENT] finds, after a hearing, that a licensee has acted incompetently ^{unethically} [IS INCOMPETENT] as a registered guide-outfitter [GUIDE], class-A assistant guide, assistant guide, or transporter.

Amend #3

* Sec. 19. AS 08.54.710(c) is amended to read:

(c) The board [DEPARTMENT] may impose the following disciplinary sanctions, singly or in combination:

- (1) permanently revoke a license;
- (2) suspend a license for a specified period;
- (3) censure or reprimand a licensee;
- (4) impose limitations or conditions on the professional practice of a licensee;
- (5) impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of the licensee;
- (6) impose probation requiring a licensee to report regularly to the board [DEPARTMENT] on matters related to the grounds for probation;
- (7) impose a civil fine not to exceed \$5,000 [\$1,000].

* Sec. 20. AS 08.54.710(d) is amended to read:

(d) The board [DEPARTMENT] shall permanently revoke a transporter license or any class of guide license if the board [DEPARTMENT] finds after a hearing that the license was obtained through fraud, deceit, or ~~innocent~~ misrepresentation.

Amend #4

* Sec. 21. AS 08.54.710(e) is amended to read:

(e) The board [DEPARTMENT] shall suspend or permanently revoke a

1 transporter license or any class of guide license without a hearing if the court orders
2 the board [DEPARTMENT] to suspend or permanently revoke the license as a
3 penalty for conviction of an unlawful act [UNDER AS 08.54.720]. If the board
4 [DEPARTMENT] suspends or permanently revokes a license under this subsection,
5 the board [DEPARTMENT] may not also impose an administrative disciplinary
6 sanction of suspension or permanent revocation of the same license for the same
7 offense for which the court ordered the suspension or permanent revocation under
8 AS 08.54.720.

9 * Sec. 22. AS 08.54.710(h) is amended to read:

10 (h) If the board [DEPARTMENT] revokes a license under this section, the
11 person whose license has been revoked shall immediately surrender the license to the
12 department.

13 * Sec. 23. AS 08.54.710(i) is amended to read:

14 (i) The board [DEPARTMENT] may summarily suspend a licensee from
15 practice of the profession under this chapter, for a period of not more than 30 days,
16 before a final hearing is held or during an appeal if the board [DEPARTMENT] finds
17 that the licensee poses a clear and immediate danger to the public health and safety. A
18 person is entitled to a hearing before the board [DEPARTMENT] to appeal the
19 summary suspension within seven days after the order of suspension is issued. A
20 person may appeal an adverse decision of the board [DEPARTMENT] on an appeal
21 of summary suspension to a court of competent jurisdiction.

22 * Sec. 24. AS 08.54.720(a) is amended to read:

23 (a) It is unlawful for a

24 (1) person who is licensed under this chapter to knowingly fail to
25 ~~promptly~~ report to the Department of Public Safety, [DIVISION OF FISH AND
26 WILDLIFE PROTECTION,] and in no event later than 20 days, a violation of a state
27 or federal wildlife or game, guiding, or transportation services statute or regulation
28 that the person reasonably believes was committed by a client or an employee of the
29 person;

30 (2) person who is licensed under this chapter to intentionally obstruct
31 or hinder or attempt to obstruct or hinder lawful hunting engaged in by a person who

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is not a client of the person;

(3) class-A assistant guide or an assistant guide to knowingly guide a big game hunt except while employed and supervised by a registered guide-outfitter [GUIDE];

(4) person who holds any class of guide license or transporter license to knowingly enter or remain on private, state, or federal land without prior authorization during the course of providing big game hunting services or transportation services;

(5) registered guide-outfitter [GUIDE] to knowingly engage in providing big game hunting services outside of

(A) a game management unit for which the registered guide-outfitter [GUIDE] is certified; or

(B) a use area for which the registered guide-outfitter [GUIDE] is registered under AS 08.54.750 unless the registration requirement for the area has been suspended by the Department of Fish and Game;

(6) person to knowingly guide without having a current registered guide-outfitter [GUIDE], class-A assistant guide, or assistant guide license and hunting license in actual possession; *Amend # 5*

(7) registered guide-outfitter [GUIDE] to knowingly fail to comply with AS 08.54.610(e);

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

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

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

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

(ii) reporting the violation;

(9) person without a current registered guide-outfitter [GUIDE]

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1 license to knowingly guide, advertise as a registered guide-outfitter [GUIDE], or
2 represent to be a registered guide-outfitter [GUIDE];

3 (10) person without a current master guide-outfitter [GUIDE] license
4 to knowingly advertise as, or represent to be, a master guide-outfitter [GUIDE];

5 (11) person without a current registered guide-outfitter [GUIDE]
6 license to knowingly outfit a big game hunt, provide outfitting services, advertise as
7 an outfitter of big game hunts, or represent to be an outfitter of big game hunts;

8 (12) person to knowingly provide transportation services to big game
9 hunters without holding a current registered guide-outfitter [GUIDE] license or
10 transporter license;

11 (13) person without a current transporter license to knowingly
12 advertise as, or represent to be, a transporter;

13 (14) class-A assistant guide or an assistant guide to knowingly contract
14 to guide or outfit a hunt;

15 (15) person licensed under this chapter to knowingly violate a state
16 statute or regulation prohibiting waste of a wild food animal or hunting on the same
17 day airborne;

18 (16) person to knowingly provide big game hunting service or
19 transportation services during the period for which the person's license to provide that
20 service is suspended or revoked;

21 (17) registered guide-outfitter [GUIDE], except in the defense of life
22 or property, to knowingly personally take

23 (A) big game while accompanying a client in the field; or

24 (B) a species of big game if the registered guide-outfitter
25 [GUIDE] is under contract with a client to provide a guided hunt for that
26 species of big game and the client is in the field;

27 (18) person who is licensed as a registered guide-outfitter [GUIDE], a
28 class-A assistant guide, or an assistant guide, except in the defense of life or property,
29 to knowingly personally take big game while a client of the registered guide-outfitter
30 [GUIDE] by whom the person is employed is in the field unless the person is not
31 participating in, supporting, or otherwise assisting in providing big game hunting

1 services to a client of the registered guide-outfitter [GUIDE] by whom the person is
2 employed; or

3 (19) person who is licensed as a transporter, or who provides
4 transportation services under a transporter license, to knowingly accompany or remain
5 in the field with a big game hunter who is a client of the person except as necessary to
6 perform the specific duties of embarking or disembarking big game hunters, their
7 equipment, or big game animals harvested by hunters; this paragraph does not apply to
8 a person who holds both a transporter license and a registered guide-outfitter [ANY
9 CLASS OF GUIDE] license issued under this chapter when the person has a
10 contract to provide guiding services for the client.

11 * Sec. 25. AS 08.54.720(f) is amended to read:

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

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

18 (2) the court shall order the board [DEPARTMENT] to suspend the
19 guide license or transporter license of a person who commits a misdemeanor offense
20 set out in (a)(2) or (8) - (14) of this section for a specified period of not less than one
21 year and not more than five years;

22 (3) the court shall order the board [DEPARTMENT] to suspend the
23 guide license or transporter license for a specified period of not less than three years,
24 or to permanently revoke the guide license or transporter license, of a person who
25 commits an offense set out in (a)(15) or (16) of this section; and

26 (4) all guns, fishing tackle, boats, aircraft, automobiles, or other
27 vehicles, camping gear, and other equipment and paraphernalia used in, or in aid of, a
28 violation of (a) of this section may be seized by persons authorized to enforce this
29 chapter and may be forfeited to the state as provided under AS 16.05.195.

30 * Sec. 26. AS 08.54.730 is amended to read:

31 **Sec. 08.54.730. Injunction against unlawful action.** When in the judgment

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of the board [DEPARTMENT], a person has engaged in an act in violation of AS 08.54.620(b), 08.54.630(b), 08.54.650(b), 08.54.710(g), or 08.54.720(a) or the regulations adopted under these statutes, the board [DEPARTMENT] may apply to the appropriate court for an order enjoining the action. Upon a showing by the board [DEPARTMENT] that the person is engaging in the act, the court shall grant injunctive relief or other appropriate order without bond.

* Sec. 27. AS 08.54.740 is amended to read:

Sec. 08.54.740. Responsibility of guide or transporter for violations. (a) A registered guide-outfitter [GUIDE] who contracts to guide or outfit a big game hunt is equally responsible under AS 08.54.710 for a violation of a state or federal wildlife or game or [,] guiding [, OR TRANSPORTATION SERVICES] statute or regulation committed by a person while in the course of the person's employment for the registered guide-outfitter [GUIDE].

(b) A transporter who provides transportation services is equally responsible under AS 08.54.710 for a violation of a state or federal wildlife or game, guiding, or transportation services statute or regulation committed by a person while in the course of the person's employment for the transporter.

* Sec. 28. AS 08.54.750 is amended to read:

Sec. 08.54.750. Use area registration. (a) At least 30 days before conducting big game hunting services within a guide use area, a registered guide-outfitter [GUIDE] shall inform the department, in person or by registered mail on a registration form provided by the department, that the guide-outfitter [GUIDE] will be conducting big game hunting services in the use area. A registered guide may not withdraw or amend a guide use area registration during the calendar year in which the registration was submitted to the department.

(b) A registered guide-outfitter [GUIDE] may not register for, or conduct big game hunting services in,

- (1) more than three guide use areas during a calendar year; or
- (2) a guide use area that is outside of a game management unit for which the registered guide-outfitter [GUIDE] is certified under AS 08.54.600.

(c) Notwithstanding (a) and (b) of this section, a registered guide-outfitter

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1 [GUIDE] may register to conduct big game hunting services within a guide use area at
 2 any time before beginning operations in the guide use area and may conduct big game
 3 hunting services in a guide use area, or for a big game species in a guide use area, that
 4 is not one of the three guide use areas for which the registered guide-outfitter
 5 [GUIDE] has registered under (b) of this section if the Department of Fish and Game
 6 has determined by regulation that it is in the public interest to suspend the registration
 7 requirements for that guide use area or for all guide use areas in a game management
 8 unit or game management subunit for a big game species within those guide use areas.

9 (d) Notwithstanding (b) of this section, a registered guide-outfitter [GUIDE]
 10 who is registered in three guide use areas may also register for and conduct big game
 11 hunting services in a portion of one additional guide use area on federal land adjacent
 12 to a guide use area in which the registered guide-outfitter [GUIDE] is already
 13 registered if the board [DEPARTMENT] finds that the portion of the adjacent guide
 14 use area for which the registered guide-outfitter [GUIDE] is seeking to be registered
 15 would otherwise remain unused by a registered guide-outfitter [GUIDE] because the
 16 boundaries of guide use areas do not coincide with boundaries of federal big game
 17 guide concession or permit areas.

18 (e) In this section, "guide use area" means a geographic area of the state
 19 identified as a guide-outfitter use area by the former Big Game Commercial Services
 20 Board established under former AS 08.54.300 and described on a set of maps titled
 21 Guide-Outfitter Use Area Maps, dated June 22, 1994, as amended by the board as
 22 the board considers necessary. *to take into account property boundary changes*

23 * Sec. 29. AS 08.54.750 is amended by adding new subsections to read:

24 (f) Notwithstanding (b) of this section, a registered guide who is registered in
 25 three guide use areas may also register for and conduct big game hunting services for
 26 wolf, wolverine, black bear, brown bear, or grizzly bear in guide use areas within a
 27 game management unit or portion of a game management unit where the Board of
 28 Game has identified predation by wolf, wolverine, black bear, brown bear, or grizzly
 29 bear as a cause of the depletion of a big game prey population or a reduction of the
 30 productivity of a big game prey population that is the basis for the establishment of an
 31 intensive management program in the game management unit or portion of the game

Possible per AMM

Gives Authority to change guide use areas

Amend # 6

1 management unit or for the declaration of the biological emergency in the game
 2 management unit or portion of the game management unit. A registered guide may
 3 only conduct hunts in a guide use area under this subsection for the big game species
 4 identified by the Board of Game as the cause of the depletion or reduction of
 5 productivity a big game prey population.

6 (g) At least 60 days before providing transportation services to, from, or in an
 7 area as may be determined by the board, a transporter shall inform the department, in
 8 person or by registered mail on a registration form provided by the department, that
 9 the transporter will be providing transportation services to, from, or in the use area.
 10 The board may establish transporter use areas and adopt regulations to implement this
 11 subsection as the board considers necessary.

12 * Sec. 30. AS 08.54.760 is amended to read:

13 **Sec. 08.54.760. Hunt records; confidentiality of hunt records and activity**
 14 **reports.** (a) The department shall collect and maintain hunt records provided by a
 15 registered guide-outfitter [GUIDE]. A registered guide-outfitter [GUIDE] shall
 16 submit to the department a hunt record for each contracted hunt within 60 [30] days
 17 after the completion of the hunt. A hunt record must include a list of all big game
 18 hunters who used the guiding or outfitting services of the registered guide-outfitter
 19 [GUIDE], the number of each big game species taken, and other information required
 20 by the board [DEPARTMENT]. The department shall provide forms for reporting
 21 hunt records.

22 (b) The department shall make hunt records received under this section, and
 23 activity reports received under AS 08.54.650, available to state agencies, [AND]
 24 federal law enforcement agencies and other [FISH AND WILDLIFE] law
 25 enforcement agencies [CHARGED WITH THE ENFORCEMENT OF STATUTES
 26 AND REGULATIONS RELATING TO GUIDING, OUTFITTING,
 27 TRANSPORTATION SERVICES, OR GAME OR WITH MANAGEMENT OF
 28 GAME] if requested [FOR GAME MANAGEMENT OR LAW ENFORCEMENT
 29 PURPOSES]. Aggregated data compiled from hunt records and activity reports may
 30 be included in reports by the department. For all other purposes, the hunt records and
 31 activity reports are confidential and are not subject to inspection or copying under

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1 AS 40.25.110 - 40.25.125.

2 * Sec. 31. AS 08.54.770 is amended to read:

3 Sec. 08.54.770. License and examination fees. (a) The department shall set
4 fees under AS 08.01.065 for each of the following:

- 5 (1) registered guide-outfitter [GUIDE] license;
- 6 (2) class-A assistant guide license;
- 7 (3) assistant guide license;
- 8 (4) transporter license;
- 9 (5) license application fee.

10 (b) The license fee for the registered guide-outfitter [GUIDE], class-A
11 assistant guide, or assistant guide license is in addition to the fee required for a hunting
12 license issued by the Department of Fish and Game under AS 16.05.340.

13 (c) An applicant for a qualifying examination for a registered guide-outfitter
14 [GUIDE] license shall pay a fee established by regulations adopted under
15 AS 08.01.065.

16 (d) The fee for the transporter license must be equal to the fee for the
17 registered guide-outfitter [GUIDE] license.

18 (e) The [FOR LICENSES ISSUED UNDER THIS CHAPTER FOR 1997
19 AND SUBSEQUENT YEARS, THE] amount of the license fee for a nonresident shall
20 be two times the amount of the license fee for a resident.

21 * Sec. 32. AS 08.54.790 is amended to read:

22 Sec. 08.54.790. Definitions. In this chapter,

23 (1) "big game" means brown bear, grizzly bear, caribou, moose, black
24 bear, bison, Sitka blacktail deer, elk, mountain goat, musk-ox, and mountain or Dall
25 sheep; "big game" includes wolf and wolverine when taken under hunting regulations;

26 (2) "big game hunting service" means a service for which the provider
27 of the service must obtain a registered guide-outfitter [GUIDE], class-A assistant
28 guide, or assistant guide license; "big game hunting service" includes guiding services
29 and outfitting services;

30 (3) "board" means the Big Game Commercial Services Board;

31 (4) "compensation" means payment for services including wages or

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

2 (5) [(4)] "department" means the Department of Community and
3 Economic Development;

4 (6) [(5)] "field" means an area outside of established year-round
5 dwellings, businesses, or other developments [USUALLY] associated with a city,
6 town, or village; "field" does not include permanent hotels or roadhouses on the state
7 road system or state or federally maintained airports;

8 (7) [(6)] "game management unit" means one of the 26 geographic
9 areas defined by the Board of Game for game management purposes;

10 (8) [(7)] "guide" means to provide, for compensation or with the intent
11 or with an agreement to receive compensation, services, equipment, or facilities to a
12 big game hunter in the field by a person who accompanies or is present with the big
13 game hunter in the field either personally or through an assistant; in this paragraph,
14 "services" includes

15 (A) contracting to guide or outfit big game hunts;

16 (B) stalking, pursuing, tracking, killing, or attempting to kill
17 big game;

18 (C) packing, preparing, salvaging, or caring for meat, except
19 that which is required to properly and safely load the meat on the mode of
20 transportation being used by a transporter;

21 (D) field preparation of trophies, including skinning and
22 caping;

23 (E) selling, leasing, or renting goods when the transaction
24 occurs in the field;

25 (F) using guiding or outfitting equipment, including spotting
26 scopes and firearms, for the benefit of a hunter; and

27 (G) providing camping or hunting equipment or supplies that
28 [WHICH] are already located in the field;

29 (9) [(8)] "outfit" means to provide, for compensation or with the intent
30 to receive compensation, services, supplies, or facilities to a big game hunter in the
31 field, by a person who neither accompanies nor is present with the big game hunter in

1 the field either personally or by an assistant;

2 (10) [(9)] "transportation services" means the carriage for
3 compensation of big game hunters, their equipment, or big game animals harvested by
4 hunters to, from, or in the field; "transportation services" does not include the carriage
5 by aircraft of big game hunters, their equipment, or big game animals harvested by
6 hunters

7 (A) on nonstop flights between airports listed in the Alaska
8 supplement to the Airmen's Guide published by the Federal Aviation
9 Administration; or

10 (B) by an air taxi operator or air carrier for which the carriage
11 of big game hunters, their equipment, or big game animals harvested by
12 hunters is only an incidental portion of its business; in this subparagraph,
13 "incidental" means transportation provided to a big game hunter by an air taxi
14 operator or air carrier who does not

15 (i) charge more than the usual tariff or charter rate for
16 the carriage of big game hunters, their equipment, or big game animals
17 harvested by hunters; or

18 (ii) advertise transportation services or big game
19 hunting services to the public; in this sub-subparagraph, "advertise"
20 means soliciting big game hunters to be customers of an air taxi
21 operator or air carrier for the purpose of providing air transportation to,
22 from, or in the field through the use of print or electronic media,
23 including advertising at trade shows, or the use of hunt broker services
24 or other promotional services.

25 * Sec. 33. AS 16.05.407(a) is amended to read:

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

28 (1) a person who is licensed as

29 (A) a registered guide-outfitter [GUIDE] or a master guide-
30 outfitter [GUIDE] under AS 08.54 and who is providing big game hunting
31 services to the nonresident under a contract with the nonresident; or

1 (B) a class-A assistant guide or an assistant guide under
2 AS 08.54 and who is employed by a registered guide-outfitter [GUIDE] or a
3 master guide-outfitter [GUIDE] who has a contract to provide big game
4 hunting services to the nonresident; or

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

6 (A) the spouse of the nonresident; or

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

9 * Sec. 34. AS 16.05.407(f) is amended to read:

10 (f) An applicant for a nonresident hunt permit for the taking of an animal
11 specified in (a) of this section shall, if requested by the department, first furnish to the
12 department proof of prior authorization to use federal, state, or private land where the
13 permit hunt will occur. The authorization shall be provided to the applicant by the
14 registered guide-outfitter [GUIDE] or master guide-outfitter [GUIDE] with whom
15 the applicant has contracted to guide the permit hunt.

16 * Sec. 35. AS 16.05.408(a) is amended to read:

17 (a) It is a class A misdemeanor for a nonresident alien to hunt, pursue, or take
18 a big game animal as defined by the Board of Game unless personally accompanied by

19 (1) a registered guide-outfitter [GUIDE] or a master guide-outfitter
20 [GUIDE] licensed under AS 08.54 who is providing big game hunting services to the
21 nonresident alien under a contract with the nonresident alien; or

22 (2) a class-A assistant guide or an assistant guide licensed under
23 AS 08.54 who is employed by a registered guide-outfitter [GUIDE] or a master
24 guide-outfitter [GUIDE] who has a contract to provide big game hunting services to
25 the nonresident alien.

26 * Sec. 36. AS 16.05.408(c) is amended to read:

27 (c) Before obtaining a nonresident hunt permit for the taking of an animal
28 specified in (a) of this section, a nonresident alien shall, if requested by the
29 department, first furnish to the department proof of prior authorization to use federal
30 or private land where the permit hunt will occur. The authorization shall be provided
31 to the nonresident alien by the registered guide-outfitter [GUIDE] or master guide-

1 outfitter [GUIDE] with whom the nonresident alien has contracted to guide the permit
2 hunt.

3 * Sec. 37. AS 23.10.055 is amended to read:

4 Sec. 23.10.055. Exemptions. The provisions of AS 23.10.050 - 23.10.150 do
5 not apply to

6 (1) an individual employed in agriculture, which includes farming in
7 all its branches and, among other things, includes the cultivation and tillage of the soil,
8 dairying, the production, cultivation, growing, and harvesting of any agricultural or
9 horticultural commodities, the raising of livestock, bees, fur-bearing animals, or
10 poultry, and any practices, including forestry and lumbering operations, performed by
11 a farmer or on a farm as an incident to or in conjunction with the farming operations,
12 including preparation for market, delivery to storage or to market or to carriers for
13 transportation to market;

14 (2) an individual employed in the catching, trapping, cultivating, or
15 farming, netting or taking of any kind of fish, shellfish, or other aquatic forms of
16 animal and vegetable life;

17 (3) an individual employed in the hand picking of shrimp;

18 (4) an individual employed in domestic service, including a baby-
19 sitter, in or about a private home;

20 (5) an individual employed by the United States or by the state or
21 political subdivision of the state, except as provided in AS 23.10.065(b), including
22 prisoners not on furlough detained or confined in prison facilities;

23 (6) an individual engaged in the nonprofit activities of a nonprofit
24 religious, charitable, cemetery, or educational organization or other nonprofit
25 organization where the employer-employee relationship does not, in fact, exist, and
26 where services rendered to the organization are on a voluntary basis and are related
27 only to the organization's nonprofit activities; for purposes of this paragraph,
28 "nonprofit activities" means activities for which the nonprofit organization does not
29 incur a liability for unrelated business income tax under 26 U.S.C. 513, as amended;

30 (7) an employee engaged in the delivery of newspapers to the
31 consumer;

1 (8) an individual employed solely as a watchman or caretaker of a
2 plant or property that is not in productive use for a period of four months or more;

3 (9) an individual employed in a bona fide executive, administrative, or
4 professional capacity or in the capacity of an outside salesman or a salesman who is
5 employed on a straight commission basis;

6 (10) an individual employed in the search for placer or hard rock
7 minerals;

8 (11) an individual under 18 years of age employed on a part-time basis
9 not more than 30 hours in a week;

10 (12) employment by a nonprofit educational or child care facility to
11 serve as a parent of children while the children are in residence at the facility if the
12 employment requires residence at the facility and is compensated on a cash basis
13 exclusive of room and board at an annual rate of not less than

14 (A) \$10,000 for an unmarried person; or

15 (B) \$15,000 for a married couple;

16 (13) an individual who drives a taxicab, is compensated for taxicab
17 services exclusively by customers of the service, whose written contractual
18 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch
19 services are based upon flat contractual rates and not based on a percentage share of
20 the individual's receipts from customers, and whose written contract with owners of
21 taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that
22 the contract places no restrictions on hours worked by the individual or on areas in
23 which the individual may work except to comply with local ordinances;

24 (14) a person who holds a license under AS 08.54 and who is
25 employed by a registered guide-outfitter [GUIDE] or master guide-outfitter
26 [GUIDE] licensed under AS 08.54, for the first 60 work days in which the person is
27 employed by the registered guide-outfitter [GUIDE] or master guide-outfitter
28 [GUIDE] during a calendar year;

29 (15) an individual engaged in activities for a nonprofit religious,
30 charitable, civic, cemetery, recreational, or educational organization where the
31 employer-employee relationship does not, in fact, exist, and where services are

1 rendered to the organization under a work activity requirement of AS 47.27 (Alaska
2 temporary assistance program); or

3 (16) an individual who

4 (A) provides emergency medical services only on a voluntary
5 basis;

6 (B) serves with a full-time fire department only on a voluntary
7 basis; or

8 (C) provides ski patrol services on a voluntary basis.

9 * Sec. 38. AS 39.50.200(b) is amended by adding a new paragraph to read:

10 (58) Big Game Commercial Services Board (AS 08.54.591).

11 * Sec. 39. AS 41.23.420(d) is amended to read:

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

13 (1) the Department of Fish and Game, the Board of Fisheries, the
14 Board of Game, or the Big Game Commercial Services Board [DEPARTMENT OF
15 COMMUNITY AND ECONOMIC DEVELOPMENT] under AS 08.54, AS 16, or
16 AS 41.99.010;

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

18 (3) state agencies and municipalities under AS 46.39.010 and
19 AS 46.40.100.

20 * Sec. 40. AS 44.62.330(a)(35) is amended to read:

21 (35) Big Game Commercial Services Board [DEPARTMENT OF
22 COMMUNITY AND ECONOMIC DEVELOPMENT UNDER AS 08.54 AS TO
23 LICENSING AND RELATED FUNCTIONS FOR BIG GAME GUIDES AND
24 TRANSPORTERS];

25 * Sec. 41. The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 INITIAL APPOINTMENT OF MEMBERS OF THE BIG GAME COMMERCIAL
28 SERVICES BOARD. (a) Notwithstanding AS 08.54.591, added by sec. 3 of this Act, and
29 AS 39.05.055, the initially appointed members of the Big Game Commercial Services Board
30 shall be appointed by the governor to terms as follows: one member serves for one year, two
31 members serve for two years, two members serve for three years, and two members serve for

1 four years.

2 (b) The governor shall appoint the initial members of the Big Game Commercial
3 Services Board, as provided for under AS 08.54.591(a), added by sec. 3 of this Act, before
4 December 1, 2004.

5 (c) The governor shall appoint persons who are active, licensed registered guides at
6 the time of appointment to fill the initial registered guide-outfitter positions on the Big Game
7 Commercial Services Board.

8 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **TRANSITION: LICENSES.** (a) Notwithstanding AS 08.54.610(a), as amended by
11 sec. 8 of this Act, a person who holds a registered guide license in good standing on the day
12 before the first meeting of the Big Game Commercial Services Board established under
13 AS 08.54.591, added by sec. 3 of this Act, shall, after the effective date of sec. 8 of this Act,
14 be considered to hold a registered guide-outfitter license issued under AS 08.54.610, as
15 amended by sec. 8 of this Act and may renew the license as a registered guide-outfitter license
16 under AS 08.54.660, as amended by sec. 14 of this Act.

17 (b) Notwithstanding AS 08.54.610(b), as amended by sec. 8 of this Act, a person who
18 holds a master guide license in good standing on the day before the first meeting of the Big
19 Game Commercial Services Board established under AS 08.54.591, added by sec. 3 of this
20 Act, shall, after the effective date of sec. 8 of this Act, be considered to hold a master guide-
21 outfitter license issued under AS 08.54.610, as amended by sec. 8 of this Act and may renew
22 the license as a master guide-outfitter license under AS 08.54.660, as amended by sec. 14 of
23 this Act.

24 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 **SAVING CLAUSE.** Litigation, hearings, investigations, and other proceedings
27 pending under a law amended or repealed by this Act, or in connection with functions
28 transferred by this Act, continue in effect and may be continued and completed
29 notwithstanding a transfer or amendment or repeal provided for by this Act. Regulations
30 adopted under authority of a law amended or repealed by this Act remain in effect for the term
31 adopted or until repealed or otherwise amended under the provisions of this Act.

1 * Sec. 44. Sections 3 and 41 - 43 of this Act take effect immediately under
2 AS 01.10.070(c).

3 * Sec. 45. Except as provided in sec. 44 of this Act, this Act takes effect on the day on
4 which the Big Game Commercial Services Board convenes its first meeting. The
5 commissioner of community and economic development shall inform the revisor of statutes
6 and the lieutenant governor of the date on which the Big Game Commercial Services Board
7 convenes its first meeting.

1. Page 2, line 5 – following “are” delete “active” and insert “current”
2. Page 2, line 9, - following “landholders” - delete “; and” Insert – “who is not licensed under this chapter; and”
3. Page 2, line 10, - Following “member” Insert – “who is not licensed under this chapter”
4. Page 2, line 19 – Following “prepare,” Insert – “and” Following “grade” Delete - “, and administer”
5. Page 3, lines 5 through 8 – Delete paragraph (3).
6. Page 3, line 20 – following “chapter” Insert – “such as, but not limited to, the following;
a) Adoption of a Code of Ethics
b) Mandating written service contracts for guide-outfitters and transporter services.
 - 1) Contractual amendments need to be in writing and agreed to by all parties.
 - 2) The board may take disciplinary action against guide-outfitters or transporters for breach of contract.
 - 3) The department may request copies of a contract for investigative purposes.
7. Page 3, lines 22 through 25 – Following “year;” Delete all text through “Anchorage”
8. Page 3 lines 28 through 29 – Following “if” Delete “an applicant,...disability” and insert “requested at the time of application”
9. Page 4, line 5 – following “of” - Delete “a” and Insert “any” and Following “state” Insert “or federal”
10. Page 4, line 7 – following “days” insert “or”
11. Page 4 lines 8 insert new sub-subparagraphs
 - (i) fined more than \$1,000 in the previous 12 months or;
 - (ii) fined more than \$3,000 in the previous 36 months or;
 - (iii) fined more than \$5,000 in the previous 60 months;
12. Page 4, line 26 through 27 – delete “and administered”
13. Page 4, line 30 – delete “and administered”
14. Page 5, line 2 – following “hunted” - Insert “big game”

15. Page 5, line 11 – following “been solicited by the” delete “board” and insert “department”
16. Page 5 line 16 – leave existing language “(9) Has provided proof of, . . . AS 08.54.680; and”
17. Page 6, line 2 – delete “board” and insert “department”
18. Page 6, line 5 – delete “board” and insert “department”
19. Page, 6 line 10 – following “clients of the” delete “guide” and insert “registered guide-outfitter”
20. Page 6, between lines 28 & 29 – Insert new language “(3) Possess a first aid card issued by the Red Cross or a similar organization;” re-numbered subsection accordingly
21. Page 7, lines 15, 16, 17 – following , . . . “guide-outfitter [GUIDE] delete “state trooper, . . . with the person or”
22. Page 7, line 19- insert new sub paragraph
 “(C) Provides
 - (i) evidence that the person physically resides in the game management unit in which the person is to be employed;
 - (ii) at least 10 years' hunting experience in the game management unit in which th person is to be employed; military service outside of the state for not more than three years shall be accepted as part of the required 10 years' hunting experience; or
 - (iii) evidence that the applicant has passed a board approved class-A assistant guide course.”
23. Page 7, line 24 – delete “conduct guide activities” and insert “provide guide services”
24. Page 8, line 5 – Following “hunted” Insert “big game”
25. Page 8, line 8 – Delete all of “(4)” and “(5)” becomes “(4)”
26. Page 8, line 12 – New “(5)”
 - “(5) either
 - (A) obtains a written recommendation from a registered guide-outfitter who intends to employ the person as an assistant guide; or
 - (B) passes a board approved assistant guide course.
27. Page 8, line 19 – delete “conduct guide activities” and insert “provide guide services”
28. Page 9, line 21 – Following “, . . . must contain” Insert “all”
29. page 9, line 31 – following “paid in full and” insert “signs an affidavit that”

30. page 10, line 1 – following “department” delete “and the renewal of the license has been approved by the board”
31. Page 10, line 4 – following “paid in full and” insert “signs an affidavit that”
32. Page 10, line 5 – following “department” delete “and the renewal of the license has been approved by the board”
33. Page 10, line 23 – following “state” Insert “or federal”
34. Page 10, line 25 – following “under this chapter” insert “;or
(3) has negligently misrepresented or omitted a material fact on a guide or transporter application.”
35. Page 10, line 29 – following “that a licensee” delete “is incompetent” and insert “has acted incompetently”
36. Page 11, line 16 – delete “intentional” and insert “innocent”
37. Page 11, line 22 – following “penalty” delete “for” and insert “of” and delete “of an unlawful act under AS 08.54.720”
38. Page 12, lines 13 & 14 – following “Department of Public Safety,” delete “division of fish and wildlife protection,”
39. Page 12, line 14 – Delete “40” - and go back to original language “20”
40. Page 12, line 14 – Following ,...”state” Insert “or federal”
41. Page 12, line 20 – following “guide a” insert “big game”
42. Page 12, line 22 – Following ,... “class of guide” Insert “or transporter”
43. Page 12, line 23 – Following ,...”private” Insert “, state, or federal”
44. Page 12, line 24 – following “big game hunting” insert “or transportation”
45. Page 12, lines 24&25 – Insert new paragraph “(5) person to knowingly provide outfitting services without holding a current registered guide-outfitter, or master guide-outfitter license.”
46. Page 13, line 3 – following “assistant guide license and” insert “an Alaska” following “hunting license” retain original language “in actual possession”
47. Page 13, line 8 – Following ,...”state” Insert “or federal”
48. Page 13, line 11 – Following ,...”state” Insert “or federal”

49. Page 14, line 23 – following “...transporter license and” Delete “any class of guide” and Insert “registered guide-outfitter, or master guide-outfitter”
50. Page 14, line 24 – following “chapter” Insert “while under contract to provide guiding services for that client or group of clients.”
51. Page 15, line 23 – Following ,...”of a state” Insert “or federal”
52. Page 15, line 24 – Following ,...”guiding” Delete “, or transportation services” Create new subsection (b) covering violations by transportation services.
53. Page 16, line 4 –(George) language regarding BOG authorization for fourth area for intensive management areas for species as designated by the board of game.
54. Page 16, lines 6&7 – Insert new language “(3) after submission, Guide Use Area registration may not be withdrawn or changed until following calendar year.
55. Page 16, line 28 – Following ,...”dated June 22, 1994.” Insert “The board may amend these boundaries when deemed necessary.”
56. Page 16, Line 31 – Delete “guide use area” Insert “area as determined by the board”
57. Page 17, line 2 – Following ,...”the use area.” Insert “The board may adopt regulations defining transporter use areas and adopt regulations to implement this subsection.”
58. Page 17, line 6 – following ,...”hunt within” Delete “30” and Insert “60”
59. Page 17, line 11 Amend subsection (b)

(b) The department shall make hunt records received under this section, and activity reports received under AS 08.54.650, available to state, federal, or law enforcement agencies[AND FEDERAL FISH AND WILDLIFE, LAW ENFORCEMENT AGENCIES CHARGED WITH THE ENFORCEMENT OF STATUTES AND REGULATIONS RELATING TO GUIDING, OUTFITTING, AND TRANSPORTATION SERVICES, OR GAME OR WITH MANAGEMENT OF GAME] if requested [FOR GAME MANAGEMENT OR LAW ENFORCEMENT PURPOSES]. Aggregated data compiled from hunt records and activity reports may be included in reports by the department. For all other purposes, the hunt records and activity reports are confidential and are not subject to inspection or copying under AS 40.25.110 - 40.25.125.

60. Page 17, lines 20 through 22 – delete subsection (b)
61. Page 18, line 6 – AS 08.54.790 – Definitions. (for clarity purposes - show all of this section)

- (5) following “, or other developments” Delete “usually”
- (7) Delete “guide” and Insert “guide-outfitter”
- (8) Following ,... “by an assistant” Insert “. Only a registered guide-outfitter, or master guide-outfitter may provide outfitting services;”

62. Page 18, line 25 – Following ,...”to use federal” Insert “, state,”

63. *transition language to provide for existing statute and licenses to remain in place until board is established. (delay effective date?)*



LEGISLATIVE BUDGET & AUDIT COMMITTEE

REPRESENTATIVE RALPH SAMUELS, CHAIR

Senate Bill 303 Sponsor Statement

Sponsor Statement for Senate Bill 303, "An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services; and providing for an effective date."

This bill would re-establish the Big Game Commercial Services Board to oversee an important industry that exists largely on the basis of a healthy wildlife population. The board was allowed to sunset a decade ago, and in the following years, professional hunters, wildlife biologists, public and private land managers and the hunting public themselves have discovered the problems associated with a decentralized, uncoordinated system of licensing and regulating guides and transporters.

An audit commissioned by the 23rd Alaska Legislature and released in December, 2003, recommends the board be re-established. Auditors concluded after extensive interviews with affected agencies, land owners and hunters that wildlife populations would benefit from more coordinated enforcement of existing laws, and that consumer protection and hunter-client safety could be improved. The Alaska Board of Game has also asked repeatedly that a guide licensing board be re-established.

This bill would create a seven-member board within the Department of Community and Economic Development. Two members would represent active registered guides, one member would represent a licensed transporter, one member would be assigned by the Board of Game, two members would represent private landholders, and one member would represent the public. The bill also increases from \$1,000 to \$5,000 the maximum civil penalty for disciplinary purposes.

Email: Representative_Ralph_Samuels@legis.state.ak.us

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MEMORANDUM

February 17, 2004

SUBJECT: Sectional Summary of SB 303; An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services
(Work Order No. 23-LS1655\A)

TO: Representative Ralph Samuels
Attn: Henry Webb

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of SB 303; an Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Throughout the bill wherever the terms "registered guide" or "master guide" are used in statute they are replaced by "registered guide-outfitter" and "master guide-outfitter," respectively.

Section 1 of the bill amends AS 08.01.010(7) to provide that the centralized licensing provisions of AS 08.01 apply to the Big Game Commercial Services Board that is created in sec. 3 of the bill.

Section 2 of the bill sets out the sunset date of the Big Game Commercial Services Board as June 30, 2007.

Section 3 of the bill adds news sections to AS 08.54 to create the Big Game Commercial Services Board, to set out the qualifications of the seven members of the board, and to provide that the board is to receive assistance, information, and data from certain state agencies.

Section 4 of the bill amends AS 08.54.600 to provide for the transfer of responsibility for licensing and regulation of big game commercial services from the Department of Community and Economic Development to the Big Game Commercial Services Board.

Sections 5 and 6 of the bill amend AS 08.54.605(a) and (c) respectively to insert the terms "registered guide-outfitter" and "master guide-outfitter" in lieu of "registered guide" or "master guide," respectively.

Section 7 of the bill amends AS 08.54.610 to provide for the transfer of responsibility for licensing and regulation of registered guides from the Department of Community and Economic Development to the Big Game Commercial Services Board and to replace the terms "registered guide" or "master guide" with "registered guide-outfitter" and "master guide-outfitter," respectively.

Section 8 of the bill amends AS 08.54.620 to provide for the transfer of responsibility for licensing and regulation of class-A assistant guides from the Department of Community and Economic Development to the Big Game Commercial Services Board and to replace the terms "registered guide" or "master guide" with "registered guide-outfitter" and "master guide-outfitter," respectively.

Section 9 of the bill amends AS 08.54.630 to provide for the transfer of responsibility for licensing and regulation of assistant guides from the Department of Community and Economic Development to the Big Game Commercial Services Board and to replace the term "registered guide" with "registered guide-outfitter."

Section 10 of the bill amends AS 08.54.640(a) to replace the term "registered guide" with "registered guide-outfitter."

Section 11 of the bill amends AS 08.54.640(b) to transfer authority from the department to the Big Game Commercial Services Board to adopt regulations regarding the suspension of guide licenses held by person who are or become law enforcement officers and to replace the term "registered guide" with "registered guide-outfitter."

Section 12 of the bill amends AS 08.54.650(c) to provide that the Big Game Commercial Services Board may specify the information to be supplied in transporter activity reports.

Section 13 of the bill amends AS 08.54.660 to provide that the Big Game Commercial Services Board shall approve the renewal of registered guide-outfitter licenses and transporter licenses and to replace the term "registered guide" with "registered guide-outfitter."

Sections 14 and 15 of the bill amend AS 08.54.670 and 08.54.680(b), respectively, to replace the term "registered guide" with "registered guide-outfitter."

Sections 16 and 17 of the bill amend AS 08.54.710(a) and (b), respectively, to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Section 18 of the bill amends AS 08.54.710(c) to raise the maximum civil fine that can

be imposed by the Big Game Commercial Services Board from \$5,000 to \$10,000 and to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Section 19 of the bill amends AS 08.54.710(d) to provide that the Big Game Commercial Services Board shall permanently revoke a transporter license or any class of guide license if the board finds after a hearing that the license was obtained through intentional misrepresentation and to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Sections 20, 21, and 22 of the bill amend AS 08.54.710(e), (h), and (i), respectively, to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Section 23 of the bill amends AS 08.54.720(a) to provide that it is unlawful for a person licensed under AS 08.54 to fail to report a violation of a state game, guiding, or transportation services statute by a client or employee within 40 days after the violation. Also, the term "registered guide" is replaced with "registered guide-outfitter" in several places.

Section 24 of the bill amends AS 08.54.720(f) to provide that the Big Game Commercial Services Board is responsible for suspending guide licenses and transporter licenses when ordered by a court.

Section 25 of the bill amends AS 08.54.730 to provide that the Big Game Commercial Services Board may obtain an injunction to halt certain violations of AS 08.54.

Section 26 of the bill amends AS 08.54.740(a) to replace the term "registered guide" with "registered guide-outfitter."

Section 27 of the bill amends AS 08.54.750 to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and with the transfer of authority from the Department of Community and Economic Development to the Big Game Commercial Services Board.

Section 28 of the bill adds a new sub section to AS 08.54.750 to provide that transporters must provide advance notice to the Department of Community and Economic Development before providing transportation services in a guide use area.

Section 29 of the bill amends AS 08.54.760(a) to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and with the transfer of authority from the Department of Community and Economic Development to the Big Game Commercial Services Board.

Sections 30 and 31 of the bill amend AS 08.54.770 and 08.54.790(2), respectively, to

Representative Ralph Samuels
February 17, 2004
Page 4

make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter."

Section 32 of the bill amends AS 08.54.790 by adding a definition of "board."

Sections 33 - 37 amend AS 16.05.407(a), 16.05.407(f), 16.05.408(a), 16.05.408(c), and AS 23.10.055, respectively, to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter."

Section 38 of the bill amends AS 39.50.200(b) by adding the Big Game Commercial Services Board to the list of boards and commissions whose members are subject to public officers financial disclosure.

Section 39 of the bill amends AS 41.23.420(d) by substituting the Big Game Commercial Services Board for a reference to the Department of Community and Economic Development.

Section 40 of the bill amends AS 44.62.330(a)(35) by substituting the Big Game Commercial Services Board for a reference to the Department of Community and Economic Development in the list of agencies that are subject to the administrative adjudication provisions of the Administrative Procedure Act.

Section 41 of the bill repeals AS 08.54.680(a), relating to financial responsibility requirements for registered guides and transporters.

Section 42 of the bill provides for the initial appointment of the members of the Big Game Commercial Services Board.

Section 43 of the bill is the Savings Clause.

Section 44 of the bill provides that secs. 42 and 43 of the bill take effect immediately.

Section 45 of the bill provides that the remaining provisions of the bill take effect on the day that the Big Game Commercial Services Board holds its first meeting.

If I may be of further assistance, please advise.

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March 18, 2003

Senate President Gene Therriault
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

House Speaker Pete Kott
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Senator Therriault and Speaker Kott:

The Board of Game met in Anchorage from March 6 - March 15, 2003. One of the miscellaneous topics discussed in detail was the necessity for the reestablishment of a Big Game Commercial Services Board. The Board would once again like to request that this issue be seriously considered by the Legislature.

The Board of Game and the Department of Fish and Game are responsible for managing Alaska's varied wildlife resources. While the Department has the responsibility for implementation of the state's management programs, the Board has the responsibility for establishing hunting and trapping regulations in concert with the dictates of the Constitution and the statutes. We are also responsible for identifying and establishing intensive management programs, predator control programs and plowing through convoluted subsistence processes and procedures to establish coherent wildlife management policies and programs. One of the biggest stumbling blocks has been the inability of the state to establish some reasonable controls on the guiding and transporter industries.

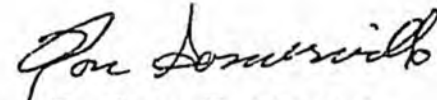
Unregulated guiding operations and uncontrolled access by transporters to the remote areas of our state have created significant and unnecessary conflicts. Congestion, wanton waste, complaints from clients, safety concerns and major conflicts with local hunters has created a climate of hostility in some areas. In addition, the present situation does little to improve the image of Alaskan fish and wildlife management programs and the users dependent on them.

The most logical solution is to recreate a Board that has the function of overseeing the big game guiding and transporter industries. Standards for licensing of guides, safety standards, testing where appropriate, monitoring and investigating client complaints, enforcing reporting requirements and the establishment and enforcement of ethics standards are some of the responsibilities that could be delegated to a Commercial Services Board.

With the complexities surrounding wildlife management in Alaska today, it only makes sense to exercise some regulatory control over all substantial commercial and non-commercial activities that create serious user conflicts and contribute to growing management problems. In addition, the maintenance of both healthy and well-regulated guide and transporter industries are important to the state.

Thank you for considering this recommendation from the Board of Game.

Sincerely,



Ron Somerville, Vice Chair
Board of Game

cc: Senator Scott Ogan
Representative Bud Fate
Acting Commissioner Kevin Duffy

Sec. 08.54.790. DEFINITIONS. In this chapter,

(1) "big game" means brown bear, grizzly bear, caribou, moose, black bear, bison, Sitka blacktail deer, elk, mountain goat, musk-ox, and mountain or Dall sheep; "big game" includes wolf and wolverine when taken under hunting regulations;

(2) "big game hunting service" means a service for which the provider of the service must obtain a registered guide, class-A assistant guide, or assistant guide license; "big game hunting service" includes guiding services and outfitting services;

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

(4) "department" means the Department of Community and Economic Development;

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

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

(7) "guide" means to provide, for compensation or with the intent or with an agreement to receive compensation, services, equipment, or facilities to a big game hunter in the field by a person who accompanies or is present with the big game hunter in the field either personally or through an assistant; in this paragraph, "services" includes

(A) contracting to guide or outfit big game hunts;

(B) stalking, pursuing, tracking, killing, or attempting to kill big game;

(C) packing, preparing, salvaging, or caring for meat, except that which is required to properly and safely load the meat on the mode of transportation being used by a transporter;

(D) field preparation of trophies, including skinning and caping;

(E) selling, leasing, or renting goods when the transaction occurs in the field;

(F) using guiding or outfitting equipment, including spotting scopes and firearms, for the benefit of a hunter; and

(G) providing camping or hunting equipment or supplies which are already located in the field;

(8) "outfit" means to provide, for compensation or with the intent to receive compensation, services, supplies, or facilities to a big game hunter in the field, by a person who neither accompanies nor is present with the big game hunter in the field either personally or by an assistant;

(9) "transportation services" means the carriage for compensation of big game hunters, their equipment, or big game animals harvested by hunters to, from, or in the field; "transportation services" does not include the carriage by aircraft of big game hunters, their equipment, or big game animals harvested by hunters

(A) on nonstop flights between airports listed in the Alaska supplement to the Airmen's Guide published by the Federal Aviation Administration; or

(B) by an air taxi operator or air carrier for which the carriage of big game hunters, their equipment, or big game animals harvested by hunters is only an incidental portion of its business; in this subparagraph, "incidental" means transportation provided to a big game hunter by an air taxi operator or air carrier who does not

(i) charge more than the usual tariff or charter rate for the carriage of big game hunters, their equipment, or big game animals harvested by hunters; or

(ii) advertise transportation services or big game hunting services to the public; in this sub-subparagraph, "advertise" means soliciting big game hunters to be customers of an air taxi operator or air carrier for the purpose of providing air transportation to, from, or in the field through the use of print or electronic media, including advertising at trade shows, or the use of hunt broker services or other promotional services.

October 16, 2003

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
GUIDES AND TRANSPORTERS

October 16, 2003

Audit Control Number

08-30025-03

This audit report addresses the specific areas related to game guiding enforcement such as determining the implications the absence of a board has had on enforcement of current guiding statutes and regulations; assessing the sufficiency of current-level enforcement activity related to illegal guiding; and, presumably, game violations. In addition, we reviewed the permit and evaluation process used by the various federal agencies in their respective game management areas.

In our opinion, the public protection and consumer safety aspects of the current guide service statutes should be improved. The legislature should also consider reestablishing a guide/transporter service licensing board.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 of the Alaska Statutes and a special request of the Legislative Audit and Budget Committee, we conducted a review of the licensing and/or permitting of guides and transporters by the Division of Occupational Licensing; Division of Mining, Land, and Water; federal agencies such as the National Park Service, National Wildlife Refuge, United States Forest Service; and, Bureau of Land Management.

Objectives

Our specific audit objectives were:

1. To determine the implications the absence of a board has had on enforcement of current guiding statutes and regulations.
2. To assess the sufficiency of current-level enforcement activity related to illegal guiding violations by both licensed and unlicensed guides.
3. To determine the purpose for transporter activity reports and if these reports are sufficiently comprehensive and timely to meet achieve the intended purpose.

Scope:

We focused our review on the permitting process by state and federal agencies during 2002 and 2003, hunt reports and transporter activity reports in 2002, and complaint case investigation from 1997 to 2003.

Methodology:

To accomplish the audit objectives, the following documents were reviewed:

- Applicable federal regulations and state guiding/transporter statutes and regulations
- Other states' guide-outfitter statutes and regulations
- Annual reports
- Licensing and investigation files for guides and transporters
- Professional hunter publications
- 2002 Sunset Review of the Colorado Office of Outfitters Registration

We also compared 1995 provisions of the former Big Game Commercial Services Board (BGCSB) statute and regulations with the currently active guide/transporter statutes and regulations.

We interviewed the following individuals:

- Members of the Alaska Professional Hunters Association
- Staff of the Division of Occupational Licensing, Department of Community and Economic Development
- Staff of the Division of Mining, Land and Water, Department of Natural Resources
- Staff of the Division of Fish and Wildlife Protection, Department of Public Safety
- Staff at the Department of Fish and Game
- Staff of the U.S. Forest Service, National Park Service, U.S Fish and Wildlife Service, and U.S. Department of the Interior's Bureau of Land Management

Additionally, we conducted a survey of guide and transporter clients. Our survey sought responses to issues such as consumer protection, safety, fair guide practices, and overall hunt experiences.

ORGANIZATION AND FUNCTION

The Big Game Commercial Services Board (BGCSB) was allowed to sunset on June 30, 1994. Under AS 08.03.020, the board continued in existence until June 30, 1995 in order to conclude its administrative operations. Chapter 33, Section 3, SLA 1996 transferred the board's regulatory responsibility for guides and transporters to the Department of Commerce and Economic Development (DCED).¹ Guides and transporters are regulated by the department through the Division of Occupational Licensing (OccLic).

A licensing examiner at OccLic is assigned the function of administering and grading the guide and game management unit examinations, issuing initial and renewal licenses for all classes of guides and transporters, reviewing hunt and transporter activity reports from guide and transporter licensees, and referring violations to the investigation section.

An investigator at OccLic is assigned to conduct investigations of complaints received from guide and transporter clients, other guides and transporters, the licensing examiner, and other state or federal agencies. Investigations resulting in accusations² are sent to the Attorney General's office for review and acceptance. The accusation is then filed and sent to the respondent³ who may request a hearing or default by not responding.

Duties of DCED

DCED's statutory responsibilities include:

1. Preparing, grading, and administering a qualification examination for a registered guide license and a certification examination for each game management units where registered guides intend to provide big game hunting services.
2. Issuing registered guide, master guide, class-A assistant guide, assistant guide, and transporter licenses.
3. Compiling, maintaining, and publishing an annual roster of registered guides and master guides licensed.
4. Impose appropriate disciplinary actions on a guide and transporter licensee.

¹ The department was renamed Department of Community and Economic Development in 1999.

² According to *Black's law dictionary, Centennial Edition (1891- 1991)*, an accusation is defined as "A formal charge against a person, to the effect that he is guilty of a punishable offense, laid before a court or magistrate having jurisdiction to inquire into the alleged crime."

³ According to *Black's law dictionary, Centennial Edition (1891- 1991)* a respondent is "In appellate practice, the party who contends against an appeal or the party against whom the appeal is taken."

5. Requiring that an applicant seeking issuance or renewal of any class of guide or transporter licenses provide a signed statement declaring whether his right to obtain a hunting, guiding, outfitting, or transporting license has been revoked in Alaska or any other state and Canada.
6. Regularly disseminating information regarding examinations and other qualifications for all classes of guide licenses to the residents of the rural areas of the state.
7. Adopting procedural and substantive regulations.
8. Administering examinations for registered guides at least twice a year.

BACKGROUND INFORMATION

Alaska Statutes 16.05.407 and .408 require nonresident U.S. citizens and nonresident foreign nationals to be accompanied by a licensed guide when hunting specified species of big game in Alaska.⁴ To hunt brown bear, grizzly bear, mountain goat or sheep in Alaska, nonresident U.S. citizens must obtain services of a guide unless they are accompanied by a state resident over 19 years of age who is within the "*second degree of kindred.*"⁵ In addition to game listed for nonresident U.S. citizens, hunters who are foreign nationals must be accompanied by a licensed guide to hunt black bear, bison, caribou, deer, elk, moose, musk ox, wolf,⁶ or wolverine.

In 1973, the Legislature established the Guide Licensing and Control Board

In 1973, the legislature created the Guide Licensing and Control Board (GLCB).⁷ The board was responsible for establishing guidelines for different classes of guide licenses, defining unlawful acts, and providing for the disciplining of guides. The board also had the authority to regulate guide activities through the adoption of regulations.

The prime sponsor of the legislation testified that the purpose of the board was to better manage the state's fish and game, in addition to seeking out competent guides for licensure. The board of seven was to be made up of "*no more than three*" individuals who were guides and the remaining four members were to have "*general knowledge of the game resources of the state.*" All members were required to have "*a minimum of 10 years residence in the state.*"

In 1976, the Legislature authorized establishment of Exclusive Guide Areas

In 1976, the legislature authorized the establishment of exclusive guide areas (EGAs).⁸ Under the authority of the new law, GLCB adopted regulations to establish a more uniform and consistent criteria for awarding EGAs that included a point system based on demonstrated prior hunting or guiding experience in a given region or area.

⁴ Licensed Guide refers to all licensing categories: a registered guide, master guide, class A assistant guide, and assistant guides. Class A assistants and assistant guides are typically employed by a registered or master guide.

⁵ According to an Alaska Department of Fish and Game hunter information publication, a second-degree of kindred means in relation to the hunter. The other individual may be: father, mother, brother, sister, son, daughter, spouse, grandparent, grandchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, stepfather, stepmother, stepsister, stepbrother, stepson, or stepdaughter.

⁶ A guide is not required for hunting wolves in Game Management Units 13, 19, and 20.

⁷ Chapter 17, SLA 1973

⁸ Chapter 133, SLA 1976

Under the EGA system, licensed guides were given exclusive rights to conduct commercial hunts within a designated geographic area. Assignment of EGAs was done after the board evaluated criteria such as occupancy, historical use, and financial value of the guide's infrastructure in an area.

After nine years of litigation, the Alaska Supreme Court declared EGAs unconstitutional

In April 1979, a licensed guide and lodge owner named Owsichuk filed a lawsuit in Superior Court challenging the constitutionality of EGAs. Owsichuk sought authorization from GLCB to guide clients in a specific region and had been denied permission because another guide had exclusive rights to guide in that same area of the state.

In October 1988, the state Supreme Court issued a decision that the statute and related regulations establishing EGAs were unconstitutional. The court determined that EGAs were contrary to the "common use clause" provision of the Alaska Constitution since they provided big game guides the exclusive use of state resources in perpetuity.

EGAs had been granted to big game guides based on a seniority system. Big game guides were not required to pay any fees to the state for the EGAs nor were they restricted as to how long they could use the area. GLCB allowed guides to transfer or sell EGAs to other guides for a profit as though it were private property in which the state had no interest.

Justice Rabinowitz, in writing for the unanimous court, found this aspect of EGAs of particular concern. He stated in the court's opinion:

Nothing in this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional. The statutes and regulations of the Department of Natural Resources authorize leases and concession contracts of limited duration, subject to competitive bidding procedures and valuable consideration. ... In contrast, EGAs are not subject to competitive bidding, provide no remuneration to the state, are of unlimited duration, and are not subject to any other contractual terms or restrictions. Rather, ... they are granted essentially on the basis of seniority, with no rental or usage fee, for unlimited duration, and are administered in such a way that guides may transfer them for a profit as if they owned them. In these respects the EGAs resemble the type of royal grants the common use clause [of the state constitution] expressly intended to prohibit. Leases and concession contracts do not share these characteristics. [emphasis added]

Even before the Owsichuk decision was issued, the legislature had begun to reconsider public policy related to the guiding industry. In May 1988, the legislature established the Interim Task Force on Guiding and Game. The central objective of the task force was to examine the various problems and issues surrounding the commercial taking of big game in the state. The task force was also directed to evaluate how to deal with the businesses or professions that provided goods and services to big game hunters in the state.

At this time, GLCB was dealing with problems such as:

1. the best way to regulate air taxi operators who were operating very much like guides – calling themselves “outfitters;”
2. complaints from the general public that the current system of licensing guides or obtaining an EGA required an individual to “have the right connections” rather than necessarily being qualified to operate in a given area; and,
3. problems the Division of Fish and Wildlife Protection was having in enforcing guiding laws, due to the vague way in which they were written. The enforcement problems were due in large part to the difficulty in defining what constituted unlicensed guiding activity.

The legislative task force was given the responsibility to examine these problems and develop a proposed alternative regulatory approach. The task force recommended a new regulatory game board should be established with expanded regulatory authority over guide-outfitters (the new term for guides) and a newly designated licensing group – transporters.

Creation of the Big Game Commercial Services Board and the licensing of transporters

In 1989, the legislature established a new board with expanded authority in the wake of the Owsichuk decision and other changes taking place in the guiding industry. The new board was named the Big Game Commercial Services Board (BGCSB). The name change reflected the expanded scope of the board’s authority which, in addition to licensing guides and their assistants, now also licensed individuals who provided transportation services to hunters.

New legislation allowed for the establishment of guide use areas (GUAs)⁹ which would permit certain license holders to guide in designated geographic areas within the state’s 26 Game Management Units (GMU). GUAs would be assigned to guide-outfitters on a nonexclusive merit basis, replacing the unconstitutional EGA system.

The BGCSB legislation also restricted the commercial use of the term “outfitter” only to licensed guides, resulting in a new statutory title of guide-outfitter. This was done to reduce confusion over what services a consumer could expect when contracting for a big game hunt in Alaska. The term outfitter was used in most other licensing jurisdictions for an individual who performed services similar to those provided by guides in Alaska. Previously, some individuals who were not licensed guides, but were operating as unlicensed transporters, had begun using the term outfitter in their advertising.

Like its GLCB predecessor, BGCSB was organizationally placed under the auspices of the Division of Occupational Licensing in the Department of Commerce and Economic

⁹ GUAs, currently used, were developed by the Alaska Department of Fish and Game at the request of the Legislative Task Force on Guiding and Game.

Development.¹⁰ The legislature, in intent language accompanying the legislation creating the board, stated it wanted BGCSB to establish a resource-based management system for allocating big game hunting opportunities among guide-outfitters.

The BGCSB oversight regimen was to:

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 guide use areas within the department's game management units.
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.

The Department of Fish and Game, Department of Natural Resources, and Department of Public Safety were tasked with providing the board with information, data, or technical assistance for the purpose of licensing and regulating activities of guide-outfitters, assistant guides, and transporters

Under BGCSB guide-outfitters were certified to guide in any area for which they qualified

It was not until January 1992 that GUA maps were first developed. The first regulations establishing how guide-outfitters could apply and qualify to operate in a GUA were not fully in place until January 1993. In July 1993, the Division of Occupational Licensing began assigning areas, on a non-restricted basis, to licensed guide-outfitters. Under the BGCSB regulations guide-outfitters could obtain permits for up to three GUAs, as long as they met the qualification requirements to operate in that area. Between July and October of 1993, the division had assigned 720 GUAs to over 300 licensed guide-outfitters.

BGCSB was not extended beyond 1995, new guide oversight statutes were adopted in 1996

After being established in 1989, the BGCSB was scheduled to terminate on June 30, 1993. The 1993 legislature did not extend the termination date of the board. Accordingly, BGCSB

¹⁰ The Department of Commerce and Economic Development has since been renamed the Department of Community and Economic Development.

entered its "wrap-up" year and, as provided by statute, was set to cease operations June 30, 1994.¹¹ The 1994 legislature extended the termination to June 30, 1994 which extended the effective close-out to the end of FY 95.¹² Under HB 102, the 1995 legislature sought to extend the board to 1998, but the measure died in committee.

In 1996, the legislature developed new statutes for the oversight of guides (the term guide-outfitter was dropped) and transporters.¹³ The Division of Occupational Licensing (OccLic) continued to have the administrative responsibility for regulating guiding and transporting activities under the new oversight regimen. Many of the statutory and regulatory requirements previously vested with the BGCSB were eliminated, particularly some specific practices that had been previously listed as unethical.¹⁴

Specific responsibilities of BGCSB or board-implemented requirements that were eliminated include:

- coordination responsibilities with other state agencies such as the Department of Fish and Game, the Department of Natural Resources, and the Department of Public Safety.
- various detailed operating standards that were previously set out in regulations.
- requirements that guide-outfitters submit a detailed operational plan to OccLic for each area they were authorized to guide hunters.
- statutory requirements that a guide's license be revoked for violation of federal game laws.

¹¹ Under AS 08.03.020(a), upon termination, a board was allowed to "continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs."

¹² Chapter 95, SLA 94

¹³ Chapter 33, SLA 96

¹⁴ The BGCSB regulation addressing ethics reads as follows:

12 AAC 38.650 GUIDE OUTFITTING ETHICS Register 129, April 1994. "Unethical activity" includes 1) failing to assist the Department of Fish & Game, Public Safety, and Commerce & Economic Development in determining the truth of any statements; 2) not fully cooperating with state and federal wildlife officials, not abiding by and advising clients and personnel of all applicable conservation and game statutes and regulations, or condoning a violation of them; 3) misrepresenting or not clearly defining rates, accommodations, and services to prospective clients before booking and acceptance of a deposit, or otherwise misleading prospective clients through false or fictitious advertising; 4) failing to make financial restitution to a client for a breach of contract by the guide-outfitter or the guide-outfitters' employees, if the breach is not attributable to fault of the client.

Under current regulations, above items three and four are no longer listed as unethical activities. Accordingly, as discussed in the text under Recommendation No. 1, the Division of Occupational Licensing does not believe it has the regulatory authority to proceed against guides when receiving complaints from clients about contract breach or failure of a guide to deliver promised services.

Guides and transporters continued to be required to file activity reports with OccLic. These reports are required to be completed for each compensated hunt by guides and on an annual basis for transporters.

Regulation of guiding activity on federal land was left mostly to a variety of federal agencies

With the termination of a centralized guide board much of the regulation of guides and transporters fell on, or remained with, various federal agencies. The president of the Alaska Professional Hunters Association estimated that as much as 40% of all guiding activity takes place on lands managed by federal agencies. These lands are regulated by a variety of federal agencies, as follows:

1. Federal Wildlife Refuges – The U.S. Fish and Wildlife Service (USFWS) administers guiding activities on 16 federal wildlife refuges in the state.
2. National Parks – The National Park Service (NPS) administers guiding activities on the ten national parks located in the state.
3. National Forests – The U.S. Forest Service (USFS) administers guiding activities carried out on lands in the Chugach and Tongass National Forests.
4. Other Federal Lands – Guiding activities conducted on other federal lands in the state – not in national refuges, parks, and forests – are administered by the Bureau of Land Management (BLM).

Each federal agency brings a slightly different perspective to guide regulation. With the exception of BLM, the agencies begin with a primary focus on the client-hunter and the aesthetics of his or her experience. That is, the primary objective of NPS, USFWS, and USFS is to provide enjoyable and safe access to game in the national park, refuge, or forest.

USFS uses a carrying capacity analysis to determine the level of permitting activity in national forests. In determining how many guides are allowed to operate in the national parks and refuges, NPS and USFWS essentially adopted the state's old EGA concept. These two federal agencies: limit the number of guides that are allowed to operate; give each guide an exclusive area within the park or refuge; impose an extensive number of detailed operating requirements on the guides selected; and, if guides are found in violation of the agency's operating agreements, they may be subject to losing their right to guide altogether. See Exhibit I, for an expanded discussion of how the various federal agencies regulate big game guide operations.

Federal Agencies Regulate Guides in a Slightly Different Ways

Four federal resource agencies regulate an estimated 40% of the guiding activity in the state through a variety of permits, leases, concessionaire agreements, and other contractual documents. Each federal agency requires guides to submit a detailed operating plan which outlines such things as the number of hunters they plan on guiding in specified season, how food will be stored, how waste products will be disposed of, etc. The agencies also require the guide to submit a safety plan outlining how they will respond to various health emergencies or possible hunting accidents that may take place in the field. All agencies require guides to provide proof of insurance for a minimum of \$300,000 in liability coverage. And, of course guides must show evidence of having a valid business license and the necessary state guide or transporter license. Specific requirements of each federal agency are as follows:

National Park Service (NPS) – The park service issues exclusive concession contracts to hunting guides and incidental business permits (IBP) to transporters. Concession contracts are awarded through a competitive process. NPS prepares a *prospectus* that outlines the requirements for operations. Interested individuals/entities apply by submitting written proposals that respond to the evaluation criteria of the *prospectus*. IBPs are generally issued in a noncompetitive manner and generally will be issued as long as the commercial activity is permitted under park regulations.

Concession contracts are issued for five-year periods and renewed by competitive selection. It may also be transferred or assigned with prior written approval of NPS. Outfitter and guides have received *preferential right* to renewal of contract. Concession contract franchise fee is based upon consideration of the probable value to the concessionaire of the value of the privilege granted by the contract.

United States Forest Service (USFS) – The Forest Service requires a Special Use Permit (SUP) for all guides and outfitters. Transporters providing only point to point service, such as air taxi operators are not required to have a special use permit. However, an air carrier advertising hunts is considered an outfitter and must have a SUP. Permits are issued by the respective ranger district office for a term of one year for two consecutive years. A five year permit may be issued only after a permittee receives two years of satisfactory evaluations by USFS. Competitive-use permits are issued only when there's a need to limit the number of guides/outfitters in an area. In addition, the USFS utilizes the carrying capacity to determine the number of permits that can be issued in each guide use areas.

U.S. Fish & Wildlife (USFWS) – The Fish and Wildlife service issues special use permits for the 16 national wildlife refuges (NWR) located in Alaska. USFWS has identified 99 guide use areas (GUA) within the refuges, and with one exception each GUA is assigned exclusively to a single guide. An individual or entity may apply for as many as 10 GUAs but can only be awarded a limit of areas. This model was similar to that used by the old Guide Licensing and Control Board.

Permits are issued on a competitive basis. The applicant's proposal is reviewed by a panel which ranks the proposal based on seven criteria with established ranking factors. Permits are issued for five years and are renewable for an additional five years if all terms and conditions have been complied with and a record of satisfactory performance met during the initial term of the permit.

Bureau of Land Management (BLM) – The bureau issues a special recreation permit (SRP) to individuals wanting to carry out guiding activities on federal lands outside of national parks, wildlife refuges, and forests. Such permits are generally issued on a first come first serve basis for a term of five years. The permit is validated annually. Validation is dependent upon payment of annual fees, submission of bonds (if required), policies, licenses, and receiving a satisfactory rating or probationary annual performance rating. Permits may be issued on a competitive basis when an area's desired use level has been reached. There are currently no BLM lands in Alaska requiring competitive bidding for an SRP.

Carrying out game management through guide oversight typically means limiting access

In a 1990 report to the 16th Legislature, the legislative task force stated the foremost purpose of any regulatory oversight system for guides was the "*conservation and management of big game resources.*" The report also stated in its preface that the directive to the task force had been to "*forge a new resource-based management system for allocating big game hunting opportunities among guide-outfitters.*"

This task force statement, regarding the allocation of opportunities among guides, reflects the central game management strategy involved with the regulation of the profession. Advocates for establishing more oversight of guides, in order to address game management concerns, invariably turn to the necessity of restricting commercial opportunities involved with guiding and transporting services. The 1990 task force stated it was important that a new guide oversight system "*ensure a viable industry, clearly basing any free market restrictions on wildlife management concerns*". [emphasis added]

Imposing free market restrictions in the interest of game management was ostensibly the central rationale: (1) for the establishment of EGAs under GLCB prior to the Owsichuk decision; (2) for the establishment of GUAs; and, (3) behind the 1998 Board of Game (BOG) resolution, See Exhibit 2, asking the legislature to reestablish a board for "*review of the number of current operations.*"

Limiting access is also seen as a way to develop a healthy, "world-class" industry¹⁵

Restricting the number of guides that can operate in a given region is also seen as a way to enhance and improve the guiding industry in Alaska. The guiding oversight structure of British Columbia, Canada, has been cited by knowledgeable guides as an example of a regulator's approach that has resulted in the development of a healthy, "world-class" big game guiding industry.

A prominent feature of the British Columbia system is use of exclusive guide areas. There are 245 guide-outfitters licensed to guide resident and nonresident hunters in an exclusive guide area with clearly defined and legally described boundaries within the province.¹⁶

Federal land managers, when taking over more responsibility for allocating regions to guides, in large part stayed with the precepts of the state's old EGA structure; because by doing so, this would not only limit the impact on game resources but also would, in their view, promote a better wilderness experience. A big concern of these managers is their agency's

¹⁵ We estimate that the guiding industry in Alaska takes in over \$40 million annually. This estimate is based on the average amount paid for a guided hunt reported by our survey respondents which is multiplied by approximately 5,000 activity reports received by the Division of Occupational Licensing each year. (See page 27, Appendix A)

¹⁶ The information came from http://wlapwww.gov.bc.ca/fw/home/becoming_guide_outfitter.htm (September 23, 2003), a British Columbia government website. The website goes on to state that guide areas vary considerably in size and availability of big game species. Guide outfitters in the province hire about 1,100 assistant guides each year and guide approximately 4,500 hunters annually.

Board of Game Has Repeatedly Sought Establishment of Oversight Board for Guides and Transporters

A March 18, 2003 letter from Board of Game Vice-Chair Sonnerville to House Speaker Kott and Senate President Therriault stated in part

[The board of game is] responsible for identifying and establishing intensive management programs, predator control programs and plowing through convoluted subsistence processes and procedures to establish coherent wildlife management policies and programs. One of the biggest stumbling blocks has been the inability of the state to establish some reasonable controls on the guiding and transporter industries. [emphasis added]

Unregulated guiding operations and uncontrolled access by transporters to remote areas of our state have created significant and unnecessary conflicts. Congestion, wanton waste, complaints from clients, safety concerns and major conflicts with local hunters has created a climate of hostility in some areas. In addition, the present situation does little to improve the image of Alaskan fish and wildlife management programs and the users dependent on them.

The most logical solution is to recreate a Board that has the function of overseeing the big game guiding and transporter industries. Standards for licensing of guides, safety standards, testing where appropriate, monitoring and investigating client complaints, enforcing reporting requirements and the establishment and enforcement of ethics standards are some of the responsibilities that could be delegated to a [guide] board.

Earlier, in May 2002, Board of Game Chair Grussendorf submitted board resolution 98-127 which asked chairpersons of the Senate and House Resources Committees to reinstate a guide board, and even suggested that it would be most appropriate to place the board under the "auspices of the Alaska Department of Fish and Game." The cited resolution stated in part...

...the board has received requests and concerns from guides and the public regarding commercial guiding, outfitting, and transporting activities and the impact that these activities have on game resources of Alaska and hunt conditions.

... the Board of Game requests that the legislature reinstate the Big Game Commercial Services Board or incorporate that responsibility to an existing board or agency, and

...that the legislature delegate authority over guides, outfitters, and transporters to a Big Game Commercial Services Board and that a review of the number of current operations to be considered to be a priority for that board. [emphasis added]

inability to limit transporter¹⁷ activity in the parks and refuges. This activity is seen as being beyond the control of the managers. They see its growth as threatening the aesthetic appreciation of the wilderness experience, because too many other hunters and users are being brought out to their lands at the same time. These managers would welcome a more vigorous state regulatory regimen over such activity, as a way to restrict transporter operations in their areas.

Representatives of the Alaska Professional Hunters Association (APHA) believe that reestablishment of restricted guide areas, if not EGAs, is critical to improving the guiding industry in Alaska. From their perspective, such action will give guides more of a stake in not only the number of game animals in their territory, but also in the size of the animals.

In APHA's view, the relaxed licensing and area assignment regimen that has been put in place since the sunset of BGCSB has been counterproductive to developing a healthy, viable guiding industry in Alaska. They recognize the constitutional defects in the old system, but believe an area assignment process could be established that satisfies the requirements set out by Justice Rabinowitz, in Owsichuk, and presumably pass constitutional review.

¹⁷ According to our survey approximately 66% of the clients of transporters are Alaskan residents.

REPORT CONCLUSIONS

The primary objective of our review was to evaluate what impact, if any, has the absence of a professional licensing board for guides had in the enforcement of guiding and game statutes and regulations. As part of this objective, we were directed to evaluate the sufficiency of investigative and legal support related to the regulation of guiding and if penalties and enforcement mechanisms, currently available, are appropriate.

A secondary objective of our review was to evaluate the purpose and need for transporter activity reports – specifically, if the reports are sufficiently comprehensive and timely to accomplish reporting objectives.

As discussed in the Background Information section, with the termination of Big Game Commercial Services Board (BGCSB), oversight of licensed guides, assistant guides, and transporters has been left, for the most part, to the various governmental land-owner agencies at the state and federal level: (1) the National Park Service (NPS), (2) the U.S. Fish and Wildlife Service (USFWS), (3) the U.S. Forest Service (USFS), (4) the Bureau of Land Management (BLM), and, at the state level, (5) the Department of Natural Resources' Division of Mining, Land and Water.

In this decentralized, uncoordinated regulatory climate, we were repeatedly told by various agencies that they would welcome a more vigorous, centralized licensing and regulatory board in order to better carry out oversight over transporters, and to a lesser extent, licensed guides.

Guiding activities that take place in national parks, wildlife refuges, and forests were, with the exception of transporter activity, still highly regulated. Staff of NPS, USFWS, and USFS – utilizing many of the operating restrictions and requirements that were part of BGCSB regulations – has put in place systems emphasizing hunter safety and maximization of the “wilderness experience.” To a large extent, these agencies also provide an avenue for handling client complaints.

Most guiding activity takes place on state land. This activity is regulated primarily under the guiding statutes and regulations initiated after the sunset of BGCSB. As discussed on the following page, because of this, guiding is being done with less emphasis on consumer protection or hunter-client safety.

Annual activity reports from transporters are sufficient for occupational licensing purposes for which they are being used. Although the reporting requirements for guides is relatively more stringent, we do not see a clear reason why guide activity information needs to be collected as often as is currently required.

Further discussion and analysis related to our conclusions is as follows:

Overall, the oversight of guides and transporters has lessened without a licensing board

New statutes and regulations put in place with the termination of BGCSB are not as rigorous as those that existed when the board was in place. Because of the way in which statutes and regulations are currently structured, the Division of Occupational Licensing (OccLic) has difficulty imposing any disciplinary actions against guides or transporters who may be operating in an unsafe or unethical manner.

We reviewed all complaints received by OccLic involving guides and transporters between 1997 and through 2003. A total of 50 complaints were received from clients about guides. For the 34 cases closed at the time at fieldwork, 12 had been closed because OccLic had no authority in statute or regulation to proceed against the guide involved.¹⁸ Most, if not all, of these cases could likely have been more vigorously investigated under the prior BGCSB regulations and statutes. Primarily, the less stringent guide ethics requirements currently in place, undercut the division's authority and ability to actively investigate hunter-client complaints about guide activities.¹⁹

Under current statutes and regulations, put in place after the sunset of BGCSB, hunter safety is less of a priority. Present statutes require only the assistant guide to have a first aid card issued by the Red Cross or a similar organization at initial licensure. Previously, all licensees were required to obtain such certification. Cardiopulmonary Resuscitation (CPR) certification is also not required for licensure of all guides. There is no requirement upon license renewal that any licensee possess current certification on first aid and CPR. In other jurisdictions that license guides, such requirements are a standard.

As discussed in the Background Information section, consumer protection and safety were more of a priority under the former BGCSB. Unethical activity²⁰ was clearly defined in statutes, and guide ethic standards were established in regulations. For example, under BGCSB, guides were required by law to have a signed written contract with clients prior to

¹⁸ At the time of fieldwork, in addition to the 34 cases closed after investigative activity, another six were administratively closed because they had been open for longer than a year and did not represent an imminent danger to public health.

¹⁹ OccLic initiated licensing sanctions in ten of these cases because the guide involved had been adjudicated by the courts or departmental hearing officer as being in violation of a state guiding, game law(s), or regulation(s).

²⁰ 1995 Alaska Statute 08.54.590 (14) defined *Unethical Activity* as specifically including:

(1) a deception or misrepresentation involving prospective or actual clients either before, during, or following the provision of big game commercial services, including misrepresentations through private or public advertising of the type, duration, cost, or conditions of the services (2) making a guaranty that species or certain number of species will be taken on a hunt (3) engaging in unsafe or unsportsmanlike activities ... including violations of state hunting or big game commercial services statutes or regulations or (4) accepting a deposit for big game commercial services [without a signed written contract].

accepting a deposit from them (see footnote 20). Now, written contracts are often not used – 21% of the clients we surveyed reported they did not have a written contract with their guide.

Transporter activity reports are appropriately sufficient and timely for the purposes involved

Under current regulation, licensed guides and transporters are required to file what are termed activity reports with OccLic. These reports set out information about what guiding and transporter activity is taking place, what assistants are being used, how much game is being taken, and other information about guide and transporter-accompanied hunters. While guides are required to complete their activity reports within 30 days of the end of their hunt, transporters are only required to file an activity report annually.

The primary use of these reports is for OccLic internal review and investigative purposes. When guides send in activity reports in advance of their hunts, OccLic does check the intended GUA, specified in the report, against the regions qualified for the guide involved. According to OccLic staff we interviewed, the Department of Fish and Game makes no use of the game information set out in the reports. Transporters are not limited to specific GUAs and the information on their reports is typically not critical to any internal review process by OccLic. Accordingly, the annual reporting required of transporters is adequate, given the needs of OccLic for the information.

Using an occupational guide board to manage game is problematic

Since establishment of the original guide board in the early 1970s, game management has been part of the public policy rationale for regulating guides and transporters. This may be attributable to finding the statute that officially recognizes and requires guiding services be used by certain types of hunters in the wildlife management section of state law. The requirement that nonresident hunters be accompanied by guides is set out in Title 16 and actually predates the legislation establishing the statute that set up the first guide board.

All state and federal resource agency managers we interviewed believe that an active oversight board, with the authority to restrict guiding and transporting activities through the licensing process, would be a valuable tool in managing game resources. Specifically, most commented that more control was needed over the activities of licensed transporters. Both federal and state resource managers saw possibilities that an active board, with broad authority to limit where transporters operated, could be valuable in reducing pressure on game resources²¹.

The Board of Game (BOG) has repeatedly taken the position that a guide board would help them in their job of managing the state's game resources. Since 1998, on three separate occasions, BOG has either adopted a formal resolution or written a letter to legislative leaders asking that a guide board be reestablished. On each of these occasions, BOG stated

²¹ Using the addresses of clients obtained for our survey, Alaska residents are a majority of the transporter's clients, while non-Alaskans are a majority of a guide's clients.

such a board was needed to alleviate and better manage the impacts that guides and transporters were having on state game resources. This emphasis on a guide board's prospective impact of game management is particularly reflected in the text of former BOG Chairman Grussendorf's letter which suggested that any such reconstituted board be placed under the auspices of the Department of Fish and Game.

When implementing a drawing permit hunt for brown bears in the Haines area (Game Management Unit 1D), the BOG findings stated that *"a lack of [a guide services board] and the inability to limit the scope of operation pertaining to individual big game commercial service providers has detrimentally affected guide hunter allocation."* Accordingly, the 2002 board limited nonresidents to 20 bear permits, to be distributed on the basis of a drawing.

Utilizing an occupational licensing board, to achieve game management objectives, may limit employment access to the profession. One of the primary responsibilities of any occupational board is to enhance public health and safety by setting and maintaining minimum competency requirements for the profession. In Alaska's sunset process, one of the criteria used to evaluate a board is *"the extent to which the board, commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public"*²².

Imposing dual responsibilities on an occupational board to issue licenses to all individuals that meet the minimum competency requirements for licensure, while at the same time restricting employment opportunities to meet game management objectives, would be difficult. While it is likely a EGA-like system could be developed that would pass constitutional review, it is just as likely that many of the individuals currently licensed as guides, or many assistants who aspire to be licensed guides, will be prevented from operating because of a return to restricted operational access to state-owned lands.

Essentially, land-management agencies at both the state and federal levels, are acting in a game management role through the restrictions they place on permits and the number of permits they issue in a given area. A reestablished guide board, with statutes and regulations updated to include business best practices, would improve the tools available to land managers regarding the quality of the licensed guides to whom they issue permits. But, we believe the current separation of game management objectives (currently done by the land managers) from an occupational licensing function is prudent.

²² Alaska Statute 44.66.050(c)(7)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider enhancing the public protection and consumer safety aspects of current guide services statutes. Additionally, the legislature should consider reestablishing a guide/transporter services licensing board.

After BGCSB ceased to operate at the end FY 95, new statutes and associated regulations were put in place by the legislature and DCED, respectively. The statutes and regulations set the parameters for guiding practices in Alaska. With the new statutes and regulations, key requirements and standards which had previously existed under the auspices of the board were no longer in place. Many of the omitted requirements were key to enhancing consumer protection and safety. Additionally, some of the missing requirements promoted more compliance among guides and transporters with land and game management requirements.

Key requirements, currently no longer in place with the sunset of BGCSB, are as follows:

1. There are no "business ethics" standards established for how guides must conduct their operations. Previously, BGCSB adopted guide-outfitting ethics included what could be termed "best practice" provisions. These unethical activities included the following practices:
 - misrepresenting or not clearly defining rates, accommodations, and services to prospective clients before booking and acceptance of a deposit
 - misleading prospective clients through false or fictitious advertising
 - failing to make financial restitution to a client for a breach of contract by the guide-outfitter or the guide-outfitter employees, if the breach is not attributable to the fault of the client
 - contracting for more hunts or for more hunters at any one time than the guide-outfitter or the guide-outfitter employees can adequately serve
 - not maintaining and providing livestock, mechanical equipment, hunting and camping gear, food supplies, and cooking facilities of a quality and condition necessary to provide services equal to or better than those described in the guide-outfitter's advertising, correspondence, verbal declaration, or contractual agreements.

Currently, no such "best practices" regulation is in place. As a result, OccLic investigators have no basis to proceed on many of the various complaints received by the

division. Previously, OccLic investigators could conduct a formal investigation of many of the practices which might serve as a basis for some licensing action against the guide or transporter involved. Now, typically OccLic must advise people with these type of complaints to consult their contract and take costly legal action against the individual involved.

An example of the above "best practice" situation in our guide survey is that of a client who had contracted for and prepaid for a hunt scheduled after the September 11, 2001 terrorist attack. He canceled his trip but was denied a refund or a rescheduled hunt. The client filed a complaint with OccLic, and the division was forced to advise the complainant that there was no administrative basis for possible sanction under current statutes and regulations.

2. Requirements for GUA registration have been significantly reduced. Qualifying to register for GUAs has become much easier under the new regulations. Guides are no longer required to:

- Provide proof of access to land. Previously, guides were required to provide evidence that they had appropriate authority to operate in their assigned GUA. For federal lands the guide had to file, with OccLic, documentation showing they had authority from the federal agency involved. For individuals operating on state lands, the guides had to show they had the necessary permits from DNR.

It is unlawful, under current statute, to knowingly enter or remain without a prior authorization while providing big game hunting services on private land only. There are a number of guides currently delinquent in payment of their DNR land use permits and using state land without appropriate permits which are, accordingly, in trespass status. Although state law requires payment-in-full of all license fees before a license is renewed,²³ it does not require guides to be current on fees owed for special or land use permits issued by DNR. There is currently no statutory licensing requirement tying the guide's outstanding state land use permit fee with their license issuance or renewal.

- Submit an operational plan for the GUA. Previously, guides were required to file an operational plan with OccLic outlining how they intended to operate within their assigned region(s). Submission of operational plans for GUAs is no longer required.

Plans were required to include such information as: (1) the location and type of base camps to be used; (2) the estimated number of clients to be guide-outfitted; (3) big game species to be hunted and the estimated number of animals to be taken; and, (4) methods used to transport people, equipment, and supplies. Additionally, previous regulations had sanctions in place, and would give OccLic a basis for investigative

²³ AS 08.54.660 (b)4

action, in the event a guide deviated from an operations plan without notifying the department.²⁴

Under current statutes and regulations, a guide only needs to notify OccLic within 30 days before conducting big game hunting services in his authorized GUA. Annually, he is required to submit his registered guide number, guide areas registering for, and the location of his camp. Guides operating on federal lands are, comparatively, very regulated. Many of the requirements that were dropped by the state after the board's termination can be found in various federal permits and/or concessions. Currently, guides who hunt on federal land are required to submit operational plans with very similar content.²⁵

- Hold valid first aid and cardiopulmonary resuscitation (CPR) certification. Previously, guides were required to obtain and maintain appropriate certification in first aid and CPR training. They were required to show documentation of such certification to OccLic to keep their license in good standing. As with the operational plan requirements, this is a standard requirement for guides seeking operating permits from federal resource agencies – but is not necessary for conducting hunts on state-owned lands. Currently, only the assistant guide is required by statute to have a first aid card issued by the Red Cross or a similar organization. The CPR requirement was eliminated for all classes of guides.
3. License sanctions for multiple consumer complaints or federal violations are no longer in place. Under the prior BGCSB statutes, following a hearing, the board could discipline guides after receiving written complaints from clients from three separate hunting parties over a two-year period. Also, a guide or transporter previously faced possible sanctions from BGCSB if they violated federal game laws or guide services regulations. Current state law and regulation have no such provisions. OccLic cannot sanction a guide or transporter who has violated a federal game law unless the court orders license suspension or revocation as part of its sentencing
 4. Civil fines for violations of guide statutes reduced dramatically²⁶. Currently, a guide or transporter violating professional statutory provisions can be fined up to a maximum of \$1,000. Under BGCSB regimen the maximum fine was set at \$30,000.

²⁴ 12 AAC 38.880, GROUNDS FOR REVOCATION OR SUSPENSION OF A USE AREA REGISTRATION, Register 129, April 1994

(a) *The board will, in its discretion, revoke or suspend a use area registration for the following reasons: ...*
(2) *a deviation from an operations plan without notifying the department under 12 AAC 38.830(b).*

²⁵ The mandatory operating plan must include, as an example, the following: 1) *the uses allowed, the total amount of use authorized, in terms of service days, hunts, or other appropriate unit of measure...*; 3) *description of authorized area of use*; 4) *liability insurance ...*; 8) *operating and safety plans ...*; 11) *compliance with federal, state, and local laws and ordinances.*

²⁶ To provide a perspective on the \$1,000 fine, the average cost of a guided hunt based on our survey results is over \$7,500.

5. Qualification examination is required only for registered guides. Qualification requirements under BGCSB oversight were more stringent. Under BGCSB regulations, both assistant and registered guides were required to pass an examination that included an oral examination for the guide-outfitter category. Currently, only the registered guide is required to take a qualification and GUA examination. Class-A assistant guides, and assistant guides, do not have to pass a qualification examination; all that is required is for them to pay the necessary licensing fee and certify they have had some hunting experience in the state.
6. Scope of services for guides and transporters. The BGCSB established license requirements for guides and those individuals who provided transportation services to hunters. While the current licensing structure maintains both guide and transporter licenses, there is a lack of clear distinction between the services that can be provided by a guide versus a transporter. Both the Department of Public Safety, Fish and Wildlife officers and OccLic investigators report difficulties in investigating potential violations of transporters providing guide services because they view the current statutes as vague and complicated.

Revisions to current state law and regulation could put back in place important consumer protection and hunter safety elements that previously existed but are currently absent. While a guiding industry oversight board is not necessary to address the concerns set out above, a licensing-oriented board will likely provide a more dynamic regulatory regimen – allowing the revision of regulations on a regular basis to enhance professionalism by guides, consumer protection, and hunter safety. Accordingly, we further recommend that the legislature consider amending the current guide and transporter statute to reestablish a guide service licensing board

APPENDICES

As part of our audit, we surveyed guide and transporter clients regarding their concerns on issues such as consumer protection, safety, and fair trade practices related to big game hunting and transportation services. We also asked about their overall hunt experience and the related costs.

Identifying the clients to survey was a two-step process. First, guides²⁷ and transporters were randomly selected from the Division of Occupational Licensing database. Then client names were selected from either the hunt reports submitted by guides or from activity reports submitted by transporters. There were 332 guide client surveys and 165 transporter client surveys distributed.

Appendix A reports the results of the guide surveys. A total of 158 (48%) guide-clients responded to the 332 surveys distributed.

Appendix B reports the results of the transporter surveys. A total of 50 (31%) transporter-clients responded to the 165 surveys distributed.

In both appendices, the number of responses will not reflect the total number of surveys received since some questions may have multiple responses.

²⁷ Guide under this context means both registered and master guides who are the only ones with authority to contract for guided hunts.

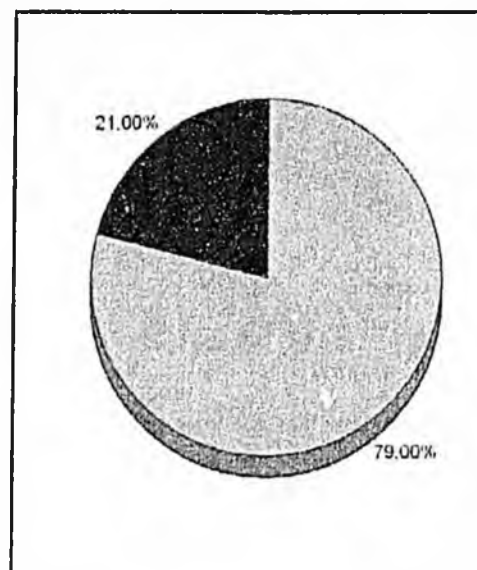
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Appendix A

Department of Community and Economic Development
Guide Clients – Survey Results

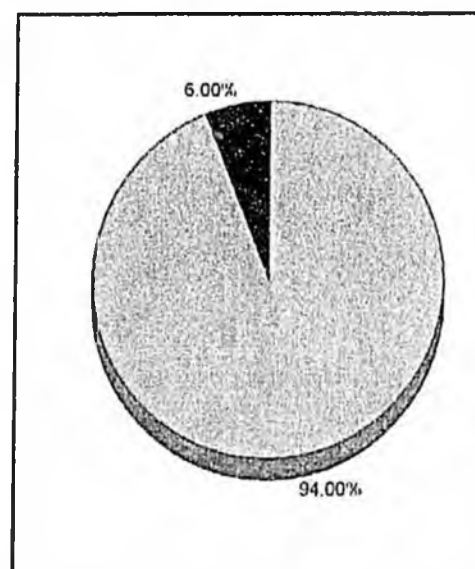
Question No. 1 – Did you have a written contract with the guide?

	Responses	Number	Percent
<input type="checkbox"/>	Yes	123	79.00%
<input type="checkbox"/>	No	32	21.00%



Question No. 2 – Were you satisfied that you received all of the hunt and camp services set out in the contract?

	Responses	Number	Percent
<input type="checkbox"/>	Yes	116	94.00%
<input type="checkbox"/>	No	7	6.00%



Appendix A

Department of Community and Economic Development Guide Clients – Survey Results

Question No. 3 - If you did not receive all the services that were contracted for, please list or summarize deficiencies. Some of the comments on deficiencies are listed below:

- *No place or way to dry clothes. Lack of communication between camps. Guide didn't want to get game animal out and had to flag airplane to get guide to get animals out.*
- *The combination brown bear and caribou hunt in 1998 was contracted with master guide. Master guide dropped client off with another guide. Expected client to carry his gear and guide supplies equipment a couple of miles to make camp. Guide was supposed to fly back every day and bring supplies. Never showed up for 5 days. Showed up on 6th day and client told guide to bring him back to Anchorage.*
- *They advertised home cooked meals, shower, sauna, their own string of mountain horses. But I was stuck with two boys that never cooked a meal, they boiled some water, most of the time I fixed peanut butter and jelly sandwiches. If you will take the time to watch the video I am sending you and read my letter and daily notes you will understand why I am upset.*
- *Outfitter had me with a guide who did not know the river or how to handle large raft. He was also arrogant and put my life in jeopardy on more than two occasions. Consequently we lost 5 days of hunt or ½ of what I have contracted for. I have written and discussed with Alaska Fish and Game¹ and they tell me there is nothing they can do. This outfitter is well known and I believe he is being protected.*
- *Lack of equipment, guides' owner was physically unable to perform his duties.*

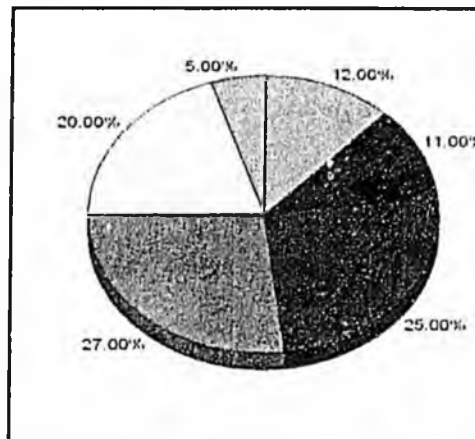
¹ DOL Investigator called client in February 2003 and indicated that he would interview the guide in March but didn't think he could do anything.

Appendix A

Department of Community and Economic Development
Guide Clients – Survey Results

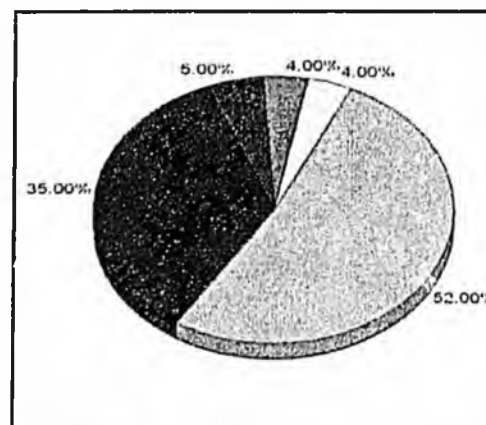
Question No. 4 – How much did you pay your guide for your hunt?

Dollar Range	Number	Percent
0 - 2,999	18	12.00%
3,000 - 4,999	17	11.00%
5,000 - 7,999	38	25.00%
8,000 - 9,999	41	27.00%
10,000 – 14,999	31	20.00%
15,000 and over	7	5.00%



Question No. 5 – How much do you estimate that you spent in Alaska related to your hunt (excluding airfare to/from the state and guided hunt cost)?

Dollar Range	Number	Percent
0 - 1,999	80	52.00%
2,000 – 4,999	55	35.00%
5,000 – 7,499	8	5.00%
7,500 - 9,999	6	4.00%
10,000 and over	6	4.00%



Question No. 6 – What was the ownership status of the land you hunted on?

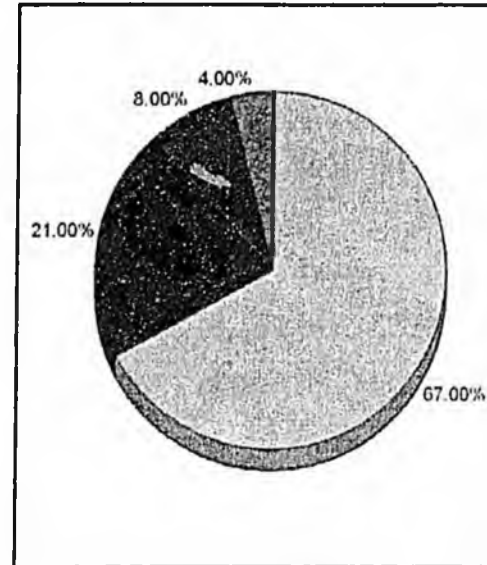
Responses	Number	Percent
Do not know	73	42.94%
Other State Owned	25	14.71%
Alaska Native Owned	18	10.59%
Nat'l Wildlife Refuge	15	8.82%
Nat'l Park Service	10	5.88%
Other Federal Land	10	5.88%
U.S. Forest Service	7	4.12%
Other	7	4.12%
State Park Service	5	2.94%
Private	0	0.00%

Appendix A

Department of Community and Economic Development
Guide Clients -- Survey Results

Question No. 7 – How would you rate your overall hunt experience?

Satisfaction	Number	Percent
Very Satisfied	105	67.00%
Somewhat Satisfied	33	21.00%
Not Very Satisfied	12	8.00%
Not At All Satisfied	6	4.00%



Question No. 8 – Please indicate the factors that resulted in a less than satisfactory hunt experience.

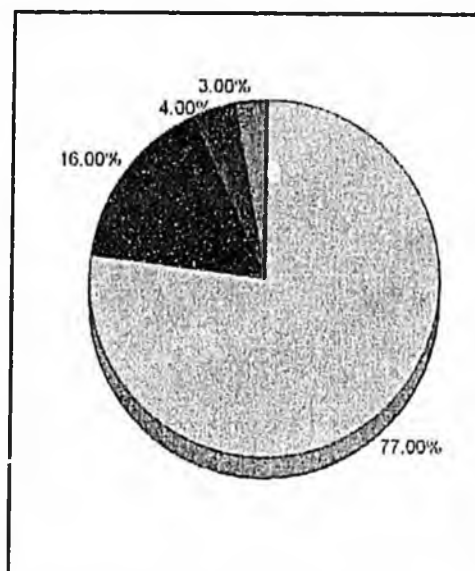
Responses	Number	Percent
Unsuccessful Hunt	12	22.0%
Lack of game animals in the area	11	20.0%
Bad weather	6	11.0%
Other	6	11.0%
Incompetent guides and/or assistant guides	5	9.0%
Poor camp conditions (inadequate shelter, poor or limited food)	4	7.0%
Inadequate or poor equipment	4	7.0%
Put in an unsafe situation	3	5.5%
Presence of too many other hunting parties	3	5.5%
Lack of proper physical conditioning necessary for the hunt	1	2.0%

Appendix A

Department of Community and Economic Development
Guide Clients – Survey Results

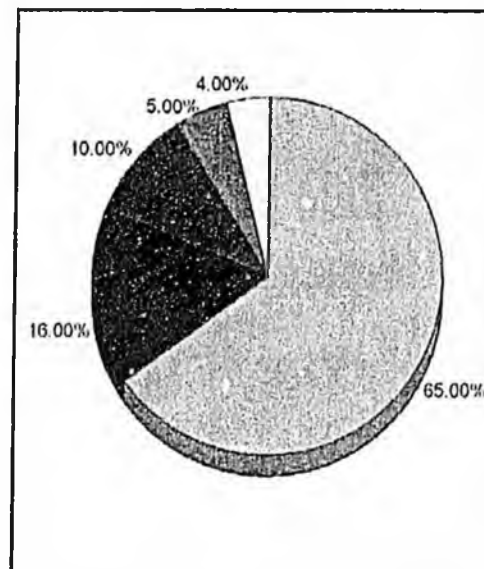
Question No. 9 – Based on your experience with this guided hunt, how likely would you return in the future to hunt big game in Alaska with a guide?

Return To Alaska	Number	Percent
Very Likely	119	77.00%
Somewhat Likely	25	16.00%
Not Likely	6	4.00%
Very Unlikely	4	3.00%



Question No. 10 – How would you rate the overall competency of your guide and/or assistant guide?

Guide Competency	Number	Percent
Excellent	99	65.00%
Very Good	25	16.00%
Good	15	10.00%
Fair	8	5.00%
Poor	6	4.00%



Appendix A

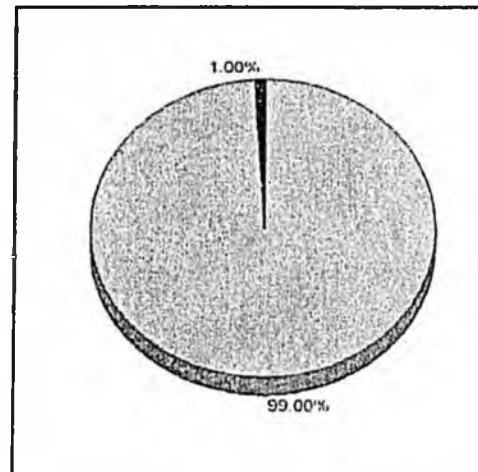
Department of Community and Economic Development
Guide Clients – Survey Results

Question No. 11 – How much contact did you have with the registered guide?

Responses	Number	Percent
In the field for all or most of the time	115	76.16%
In the field less than half the time	17	11.26%
In the field at least once during the hunt	5	3.32%
Brief contact in person at the beginning/end of hunt	11	7.28%
Brief contact by phone at the beginning/end of hunt	1	.66%
No contact	2	1.32%

Question No. 12 – Were you aware that guides are licensed by the State of Alaska?

Responses	Number	Percent
Yes	152	99.00%
No	1	1.00%

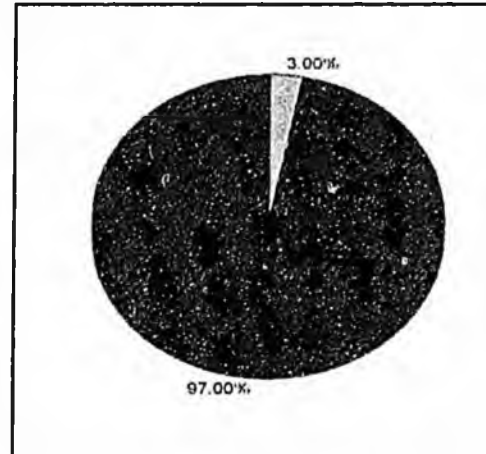


Appendix A

Department of Community and Economic Development
Guide Clients – Survey Results

Question No. 13 – Did you file a complaint with the State of Alaska, Division of Occupational Licensing, regarding some aspect of your guided hunt?

Responses	Number	Percent
■ Yes	4	3.00%
■ No	148	97.00%



None of the clients who filed a complaint were satisfied with how the complaint was handled. Dissatisfaction was due to the client's perception of Occupational Licensing's inaction and/or lax licensing standards.

We asked the guide clients to provide any other comments that they would like to share about their guided hunt experience in Alaska. Fifty-one clients provided additional comments, most of which were positive about the hunt experience, the guide's competence and Alaska's scenery. Some commented that, "it was the hunt of a lifetime." Those that made negative comments were typically related to unsuccessful hunts and related to either the lack of game animals or the high-price of the hunts.

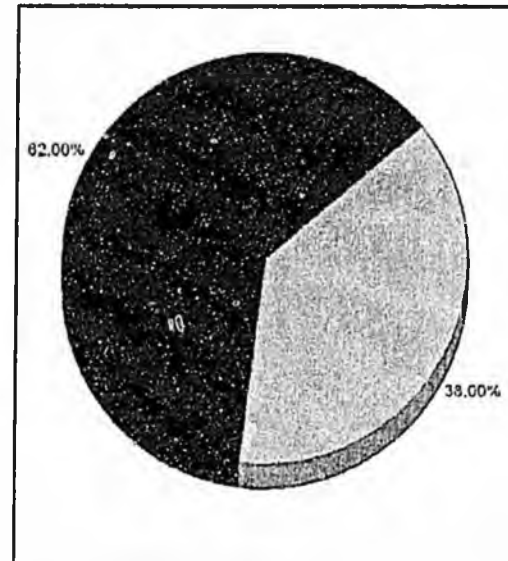
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Appendix B

Department of Community and Economic Development
 Transporter Client – Survey Results

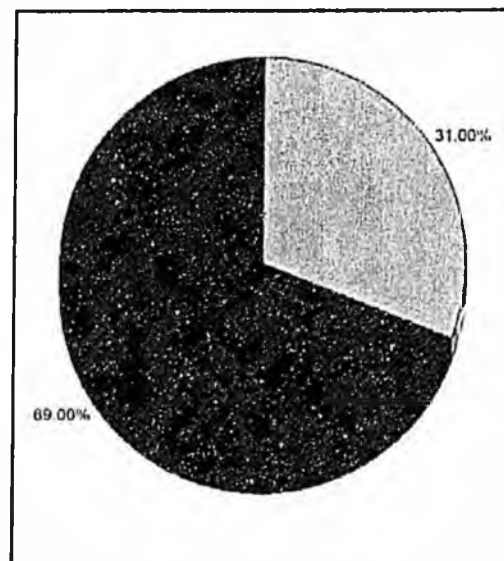
Question No. 1 – Did you have a written contract with the transporter?

Responses	Number	Percent
■ Yes	19	38.00%
■ No	31	62.00%



Question No. 2 – Transporters can also provide accommodations in the field to big game hunters. Such accommodations can involve things as a permanent lodge, house, or cabin owned by the transporter. Additionally, accommodations can be provided on a boat with permanent living quarters as long as the boat is navigating salt water. Were such accommodations part of the transportation services you received?

Responses	Number	Percent
■ Yes	15	31.00%
■ No	34	69.00%

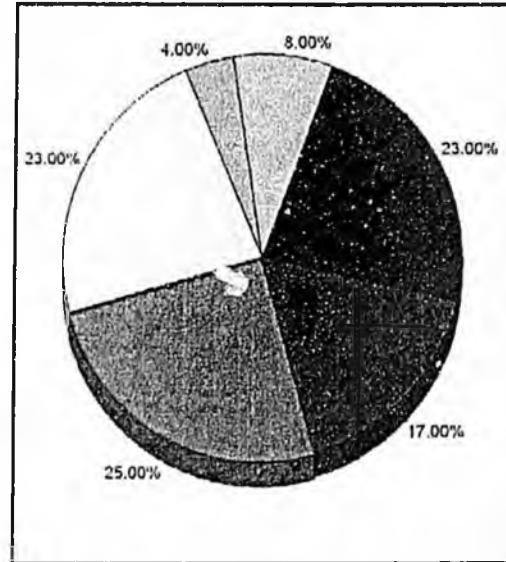


Appendix B

Department of Community and Economic Development
Transporter Client – Survey Results

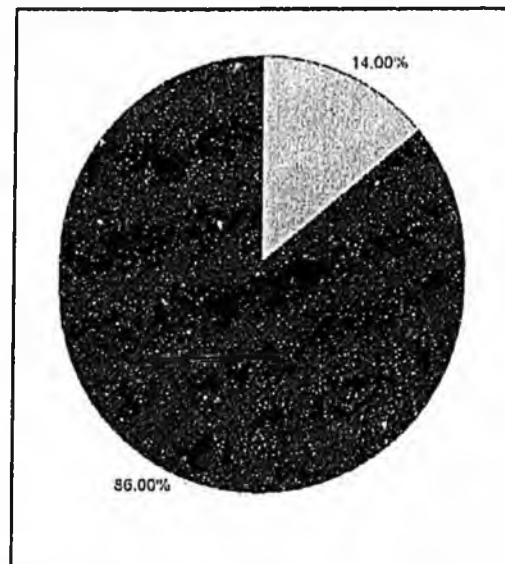
Question No. 3 – How much did you pay the transporter for all transportation, and if applicable, accommodations in the hunt area?

	Dollar Range	Number	Percent
■	Less than \$250	0	0.00%
■	\$250 - \$499	11	23.00%
■	\$500 - \$999	8	17.00%
■	\$1,000 - \$1,999	12	25.00%
■	\$2,000 - \$2,999	11	23.00%
■	\$3,000 - \$3,999	2	4.00%
■	Do Not Know	4	8.00%



Question No. 4 – Was the provided transportation part of a hunt contract with a guide?.

	Responses	Number	Percent
■	Yes	7	14.00%
■	No	43	86.00%

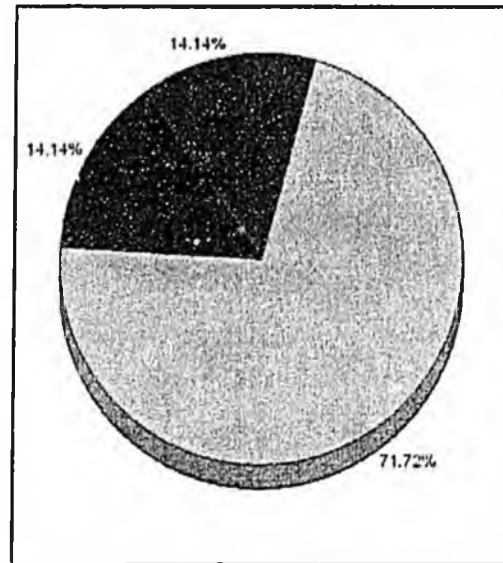


Appendix B

Department of Community and Economic Development
 Transporter Client – Survey Results

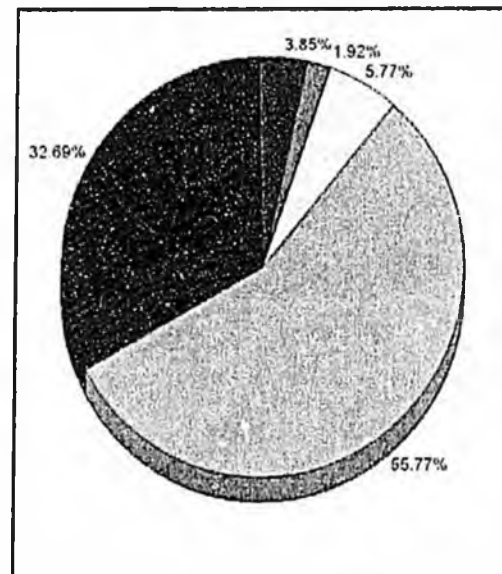
Question No. 5 – If transportation was part of the guided hunt contract, how much did you pay the guide for the hunt?

Dollar Range	Number	Percent
Less than \$3,000	5	71.72%
\$3,000 - \$3,999	1	14.14%
\$5,000 - \$7,999	1	14.14%



Question No. 6 - What mode of transportation was used by the guide or transporter?

Transportation	Number	Percent
Airplane	29	55.77%
Boat	17	32.69%
Horse	2	3.85%
All-Terrain Vehicle	1	1.92%
Other	3	5.77%



Appendix B

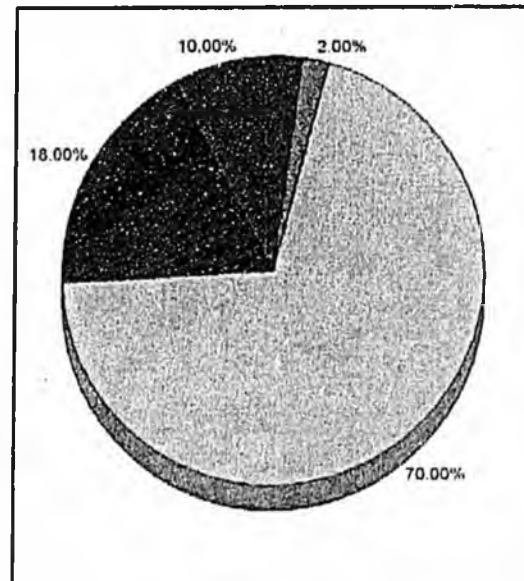
Department of Community and Economic Development
Transporter Client – Survey Results

Question No. 7 - What was the ownership status of the land you hunted on?

Responses	Number	Percent
Do Not Know	18	31.03%
Other State Owned	15	25.86%
National Wildlife Refuge	9	15.52%
U.S. Forest Service	5	8.62%
Other	3	5.17%
National Park Service	2	3.45%
Other Federal Land	2	3.45%
Private	2	3.45%
Alaska Native Land	1	1.72%
State Park Service	1	1.72%

Question No. 8 – How would you rate your overall hunt experience?

Satisfaction	Number	Percent
Very Satisfied	35	70%
Somewhat Satisfied	9	18%
Not Very Satisfied	5	10%
Not At All Satisfied	1	2%



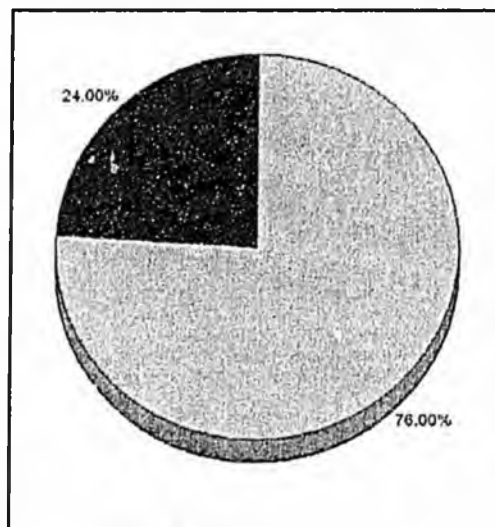
Some of the reasons identified for those who indicated less than satisfactory hunt or transporter experience were: lack of game animals, too many other hunters, bad weather, or wrong location.

Appendix B

Department of Community and Economic Development Transporter Client – Survey Results

Question No. 9 – Were you aware that transporters are licensed by the State of Alaska?

	Responses	Number	Percent
■	Yes	38	76.00%
■	No	12	24.00%



We asked the transporter clients to provide any other comments that they would like to share about their transporter or hunt experience. The following are some of the client comments:

- *“Transporters have no obligation to stay out of areas where someone is already camped out or they have already dropped off customers. Other outfitters actually landed on the place our tent was set up and dropped people off right in front of us. This was a super cub not a highway.”*
- *“All outfitters and transporters I speak to warn of other people getting dropped off on top of you. Is there anyway of designating areas, or having drop fees in areas? That would help deter these businesses from piling into one area. They would then be forced to find new areas. They could claim these as theirs.”*
- *“Was charged a 10% surcharge for my hunting license and moose tag in Iliamna because I chose to pay by credit card. I was under the impression that hunting licenses and tags was regulated by the State of Alaska and that surcharges were not allowed (even when paying by credit card) ...”*

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November 17, 2003

Ms. Pat Davidson, Legislative Auditor
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

RE: GUIDES AND TRANSPORTERS – PRELIMINARY AUDIT

Dear Ms. Davidson:

Thank you for the opportunity to comment on your preliminary audit report on Guides and Transporters. We appreciate the thoroughness of your review and discussion of the various aspects related to this industry.

Although the Department does not support reestablishing a licensing board, we concur that statutes could be enhanced to provide more aggressive enforcement of unethical or unsafe practices. While we support authority for additional enforcement and for the public health, safety and consumer protection, we are concerned that new laws not be enacted which would be used to regulate the supply of practitioners for game management purposes or solely for the economic benefit of licensees.

Again, thank you for the opportunity to comment on your review and findings. I will make my staff available to provide information and assist the committee as requested.

Sincerely,

Edgar Blatchford
Commissioner

cc: Rick Urion, Director
Division of Occupational Licensing

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STATE OF ALASKA

FRANK H. MURKOWSKI
GOVERNOR

DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

P.O. BOX 25526
JUNEAU, AK 99802-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

November 7, 2003

Pat Davidson, Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Mr. Davidson:

Thank you for the opportunity to review the preliminary audit report on Occupational Licensing and Oversight of Alaska Big Game Guides and Transporters. Your report is accurate, thorough, and well-written. The Department of Fish and Game agrees with the recommendation that the legislature consider reestablishment of a guide/transporter services licensing board (Guide Board). Creation of a Guide Board with authority to regulate guide/transporter activities would improve wildlife management, benefit hunters, and bolster the economy of the state.

The Guide Board should have the authority to determine how many hunters a transporter can drop off in an area. The Guide Board and the Board of Game would work cooperatively to insure that Alaskan wildlife are harvested at the appropriate level to safeguard sustained yield, and that hunters can enjoy a high quality hunting experience without unnecessary crowding.

The Big Game Commercial Services Board, before it ceased to exist, did an excellent job of monitoring the ethical behavior and business practices of guides. A new Guide Board could fill that same role. It is important that hunters hiring the services of a guide have confidence that their guide meets high standards of conduct.

Each year, about 11,000 non-residents hunt in Alaska, and about two-thirds hire a guide. Their activities generate over \$100 million dollars to the Alaska economy, provide about 800 year-round jobs and many more seasonal jobs. I believe that establishing a Guide Board will help insure the long-term viability of the guiding industry in Alaska.

Sincerely yours,

Wayne Regelin
Deputy Commissioner

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part of
memo

To: Linda Haye

From: Rob Hardy

RE: SB 303

Ms. Haye,

Sen. Ogan requested a written copy of my testimony presented to the Senate Resource Committee hearing Friday 3/5/2004, and in relation to CS For SB 303.

My testimony is contained within the following three (3) pages of this fax. Please forward to Sen. Ogan. Thankyou.



3/6/2004 AM

**Public Testimony
CS For Senate Bill 303
03/05/2004**

Senate Resource Committee Hearing

Thankyou Mr. Chairman:

I will make my comments as brief as possible. I apologize to the committee for not being able to attend the last hearing, as I was in Washington DC at the time lobbying on behalf of state's wildlife grants and appropriations.

I would like to encourage the committee to consider other possibilities with which to regulate and control the big-game commercial service provider industry, than through the current legislation which creates just another public board. The legislation before you does not address the real and present issue of user-conflicts which are the central focus relating to problems occurring in the field, and that are associated with an aggressive expansion and capitalization by the industry.

A means of controlling the industry through joint effort between the Department of Commerce and the Department of Fish & Game, need be considered. By crafting tools under statute that could limit the aggregate number of big-game commercial service providers by area - only as deemed necessary by a determination made through the Board of Game process - would go much further toward arresting user-conflicts in the field. The legislation at present does not take that step. There is no measure within the current legislation that would effectively control the industry, or the conflicts its expansion creates.

However, if this committee chooses to move this bill forward, I would like to see several changes made:

- I have a real concern as to the overly competitive nature that **Sec. 29 (Pg 18, Lines 23-31, and Pg 19, Lines 1-5)** create. In my guide use area - Game Management Unit 13, The Nelchina Basin - where I am both a subsistence user and an active registered big-game guide, virtually all that we have left to hunt are bears. Moose and caribou are off limits to non-resident hunters and sheep are at very low density. Increasing competition among guides for the one specie that is the mainstay of our commercial viability, is unacceptable. There are other ways

within the Board of Game process to address an abundance of bears within a management unit, rather than increasing competition among commercial operators which already experience an overly competitive situation.

- Slight modifications to the members portion of the Big-Game Commercial Services Board; Pg 2, Lines 6 and 9. Line 6, change from [one] to two members which are licensed transporters (especially in consideration of equitable ownership considering the Board's authority over Transporter Use Areas - Pg 19, Line 10). Page 2, Line 9, change from [two] to one representative of private landholders, and define the term "landholder".
- Authorizing the Department to request a copy of a contractual agreement between parties (Pg 4, Lines 8-10), then becomes part of the public record and could be made available to the public and/or media per stipulations of the *Administrations Act*. This may be in violation of the federal *Privacy Act*. I would like to know Department of Law's interpretation.
- Pg 12, Lines 4 and 5 need clear definition. What exactly does "*breached a contract*" mean? Who is the arbitrator, the Big-Game Commercial Service Board or the State and/or Federal judicial system? I see huge problems with this.
- Pg 13, Line 26 relating to reporting time of violations committed; this needs further amendment to reduce the time frame to ten days. In this day of satellite phones, cellular phones, VHF surface-to-air radios, and High Frequency over-the-horizon radio capabilities now available, a contracting and participating, supervising registered or master guide should be able to make communication with the State and or Federal agencies within 24 hours. I am sure that if a bodily accident were to occur, especially to the guide, communication would be made available almost immediately. I know that in my operation, I have several communications devices at my disposal that will function no matter my location. *Communications equipment such as thator similar to which I operate, should be manadatory of every guide in Alaska!*
- Pg 17, Line 28 should be amended from [one] calendar year, to five calendar years. The one calendar year registration requirement per use area, per operator does not provide incentive for stewardship of the resource. Stewardship of resources is lacking under the current sytem and a Big-Game Commercial Service Board will not fix that. However, by changing the registration to five calendar years, the "pilage and plunder" concept held by the industry will cease to some degree.
- Pg 18, Lines 21 and 22 should not be included in the legislation. By allowing the Big-Game Commeercial Service Board jurisdiction over the draft and creation of Guide Use Area boundaries (expansin of area size, or the shrinking of area size) is fraut with complications, misuse and likely to create civil unrest. I would encourage the committee to delete this portion of the legislation.

With all of that said, I would like to thank the Chairman for his time and that of the committee, and for hearing my concern.

Sincerely,

Rob Hardy

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(907) 355-5291
rhardy@ideafamilies.org