

HB

165

ALASKA STATE LEGISLATURE



SESSION ADDRESS
Alaska State Capitol
Juneau, AK 99801-1182
(907) 465-2487
Fax (907) 465-4956

INTERIM ADDRESS
112 Mill Bay Road
Kodiak, AK 99615
(907) 486-8872
Fax (907) 486-5264

Representative Gabrielle LeDoux

MEMO

DATE: 2/18/2008
TO: SENATE JUDICIARY
SENATOR HOLLIS FRENCH, CHAIRMAN
FROM: REPRESENTATIVE GABRIELLE LEDOUX *GL*
RE: HEARING REQUEST FOR HB 165, AN ACT RELATING TO PROVIDING
FIELD ACCOMODATIONS FOR BIG GAME HUNTERS

I respectfully request that HB 165 be scheduled for a Senate Judiciary hearing.

Attached you will find:

- Current version of the HB 165
- Sponsor Statement
- Additional documentation relating to the bill
- There may be people from Kodiak testifying from the LIO and perhaps some calling in off site such as Rick Metzger
- Fiscal notes
- My staff member assigned to this legislation is Suzanne Hancock, direct line 465-4230.

ALASKA STATE LEGISLATURE



SESSION ADDRESS
Alaska State Capitol
Juneau, AK 99801-1182
(907) 465-2487
Fax (907) 465-1956

INTERIM ADDRESS
112 Mill Bay Road
Kodiak, AK 99615
(907) 486-8872
Fax (907) 486-5264

Representative Gabrielle LeDoux

SPONSOR STATEMENT FOR HB 165

"An Act relating to providing field accommodations for big game hunters."

This act takes care of an unintended consequence created by prior legislation to establish definitions and laws for licensed guides, outfitters, and transporters of big game hunters.

This legislation will make Section 08.54.785 inapplicable to a person providing, for compensation or with the intent to receive compensation, only accommodations to a big game hunter in the field at a permanent lodge, house, or cabin on private land owned by the person.

The act will also exempt a state or federal cabin on state or federal land.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 17, 2007

SUBJECT: Transporter license and cabin rentals (Work Order No. 25-LS0380)

TO: Representative Gabrielle LeDoux
Attn: Suzanne Hancock

FROM: Brian J. Kane *BJK*
Legislative Counsel

You have asked me to research a problem involving the rental of cabins to deer hunters in the Kodiak Island area and the requirement of needing a transporter license in order to rent these cabins out. Essentially, you are asking why a person renting out these cabins would need a transporter license.

I spoke with Kevin Saxby at the Department of Law, and he clarified for me the reasoning behind the transporter license requirement. From the information you have sent me and my conversation with Mr. Saxby, I understand that your constituent, Rick Metzger, rents cabins and skiffs to both hunters and non-hunters in a remote location in the area of Kodiak Island.

First, the definition of "field" found at AS 08.54.790(6) states that "'field' means an area outside of established year-round dwellings, businesses, or other developments 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...." From my conversation with Mr. Saxby, it appears that Mr. Metzger's cabins fall into the area considered the "field" as they are not anywhere near a city, town, or village. Inclusion under this term "field" then brings into play two other designations: outfit and transportation services. Under AS 08.54.790(9), "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." Since Mr. Metzger's cabins are considered to be in the field, then renting these cabins out for compensation to big game hunters puts him under the definition of "outfit."

Also, under the definition at AS 08.54.790(10), "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...." Since Mr. Metzger rents skiffs to big game hunters, he is considered to be providing transportation services under this definition.

Keeping the above definitions in mind, then reviewing the "unlawful acts" found at AS 08.54.720, one will find two that involve Mr. Metzger. AS 08.54.720(a)(11) states

*field
cabins*

Representative Gabrielle LeDoux

January 17, 2007

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that it is unlawful for a "person without a current registered guide-outfitter license to knowingly outfit a big game hunt, provide outfitting services, advertise as an outfitter of big game hunts, or represent to be an outfitter of big game hunts." Also, AS 08.54.720(a)(12) states that is unlawful for a "person to knowingly provide transportation services to big game hunters without holding a current registered guide-outfitter license or transporter license." When Mr. Metzger's renting of cabins is placed in the "outfit" and "transportation services" categories, he then becomes subject to these rules regarding those two categories.

However, Mr. Saxby stated that he believed that AS 08.54.650 would be an easier option for Mr. Metzger than getting a guide-outfitter license. This section, describing requirements of a transporter license, states that a "transporter may provide transportation services and accommodations to big game hunters in the field at a permanent lodge, house, or cabin owned by the transporter or on a boat with permanent living quarters located on salt water. A transporter may not provide big game hunting services without holding the appropriate license." Thus, Mr. Saxby suggested that Mr. Metzger get a transporter license in order to be in line with the statutes regarding providing accommodation or supplies or transportation to big game hunters in the field.

While I am not familiar with the specifics of Mr. Metzger's advertising or target audience for renting, it appears that these statutes are aimed at people who deal only with big game hunters. When I asked Mr. Saxby how he thought these statutes related to someone who rents to anyone who wants the cabin and only occasionally has a big game hunter as a renter, he stated that this was likely a grey area.

From my review, it seems that if the cabins were rented to 10 different people and only 1 of the 10 was a big game hunter, Mr. Metzger would still need either a transporter license or guide-outfitter license. The statutes that deal with providing accommodations for big game hunters in the field do not address the level of knowledge needed by the owner of the cabin about his renter in order to place him in need of a license. The statutes only address the fact that providing accommodations or transportation for a big game hunter requires a certain license.

Thus, as these combinations of statutes read, it does appear that Mr. Metzger will need a license in order to rent his cabins to big game hunters.

Finally, based on my conversation with Mr. Saxby, it does not appear that removal of the word "usually" from AS 08.54.790(6) impacts where Mr. Metzger stands in relation to the definition of "field." I believe that even if "usually" were restored, Mr. Metzger's cabins would still be considered "in the field," and therefore subject to the licensing requirement.

If I may be of further assistance, please do not hesitate to call.

BJK:ljlw:med
07-013.ljlw

Suzanne Hancock

From: Alitakrat@aol.com
Sent: Wednesday, February 28, 2007 11:16 AM
To: Suzanne Hancock
Subject: Re: Cabin rental bill

To whom it concerns

When the Legislature re authorized the Statutes pertaining to big game guiding and transporter services to be overseen by the BGCSB some unintended consequences came to light. One of which was the rental of private cabins to hunters.

A small change in previous wording gave unforseen impetus for new emphasis on the statute. This caused undue hardship on people like myself who by all intentions had made every available effort to be legal in renting their cabins. I have worked extensively with the BGCSB and Rep. Le Douex's office to find remedies to this situation. The bill Rep. Le Douex is sponsoring is a result of this effort and has the unanimous support of all involved.

Thanks for your consideration

Rick Metzger
PO Box 5043
Athol AK 99615

AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com.

2/28/2007

Suzanne Hancock

From: Tom Temple [tom@satterberg.net]
Sent: Wednesday, March 07, 2007 11:09 AM
To: Rep. Gabrielle LeDoux
Subject: I support HB 165

Hi Ms. LeDoux;

I wanted to thank you for your support of HB 165. I also support this fair and commonsense legislation. Allowing private property owners to rent their remote cabins to anyone, including big game hunters, not only makes good sense, but is constitutionally required. When the regulations were recently altered, in effect changing what constitutes "in the field," I doubt anyone suspected that a government taking of private property rights would be the result. Many property owners, such as Rick Metzger on Kodiak Island, have been adversely affected by the change through lost income from the rental of his cabin to hunters. Meanwhile, the State and Feds are free to rent similarly situated cabins to hunters, without competition from private property owners. Approving HB 165 will correct an unjust situation that was unintentional, but damaging nonetheless. It will not harm guides or those who choose to hunt without a guide, but will provide more opportunities for Alaskans to enjoy the Great Land.

Tom Temple
Attorney
907/452-4454

Sonya Hymer

From: Brad Underwood [bradkay@alaska.net]
Sent: Wednesday, March 07, 2007 6:55 PM
To: Sonya Hymer
Subject: HB 165

Sonya, could you please forward this to Gabrielle? Thank you. Brad and Kay Underwood

Dear Gabrielle/Suzanne - Kay and I would like to lend our support of HB 165. As private property owners in a couple of remote areas on Kodiak we are concerned that some of our options may be restricted and in jeopardy. Rick Metzger has brought to our attention the recently changed regulations. We are hopeful that HB 165 will be approved by the legislature. It seems fair and reasonable and will probably clear up some unintended consequences. Thanks for your efforts on this. Brad and Kay Underwood

3/8/2007

Suzanne Hancock

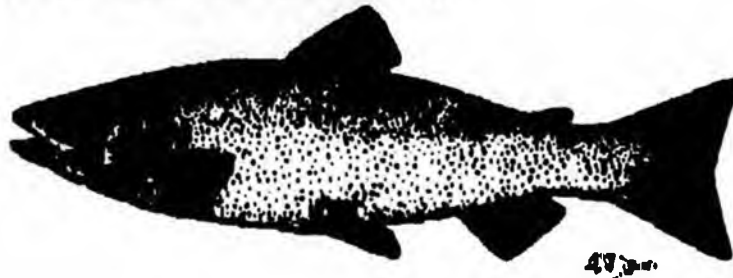
From: Tom Streifel [tomstreifel@gci.net]
Sent: Wednesday, March 07, 2007 8:05 PM
To: Suzanne Hancock
Subject: HB 165

Suzanne,

Please pass on to Gabrielle that myself and a lot of other folks that hunt and fish here in Kodiak would appreciate every effort she could put into passing HB 165. The bill, as you know, concerns folks being able to rent a cabin in the field to hunt from. Makes good sense to me and other folks.

Thanks again,
Tom Streifel

Fox Island Sot Hot Camp



Jim & Kim Peterson* Owners/Operators

**P.O. Box 240102
Douglas, Alaska 99824
(907)364-3643
sockeye7@acsalaska.net**

3/8/07

Honorable Gabrielle Le Doux,

We are writing to you today to show support for HB 165. My family owns 7 acres on the south end of Kodiak Island in Deadman Bay. I am a lifelong Alaskan and started fishing down in the Alitak Bay District in 1965. Over the years I have seen many people from all walks of life travel to Kodiak to enjoy the scenic beauty, wildlife and the beautiful country that our Island affords. A lot of times people don't have the money to hire a guide or stay in some big fancy lodge and being able to rent a cabin for a few days gives them a chance to experience and appreciate Kodiak Island. Thank-you for your time and consideration of our opinion.

Jim & Kim Peterson

Suzanne Hancock, Chief of Staff
Representative Gabrielle LeDoux
State Capitol
District 36
Juneau, AK 99801-1121

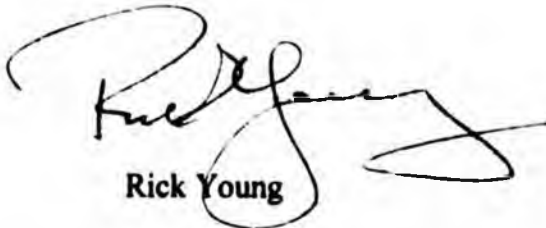
Dear Representative LeDoux:

I am writing you in support of HB 165 and with some serious threats that I think your guided hunting business is having on the average hunter.

I have always enjoyed hunting by doing it myself, successful or not I derive more pleasure from a hunt knowing I did it myself. I have enjoyed coming to Alaska on numerous occasions and have spent tens of thousands of dollars on licenses, hotels, car and cabin rental, meals and air taxi services. It is all a part of the experience that I have come to enjoy, an average wage earner carving out a special hunting experience.

Now these special interest groups want to restrict me (even further) by denying me access to remote cabins and some of the simple privileges that I have worked hard to research and realize. I work in an industry that is dedicated to recruiting new hunters. I know for a fact that the more common these restrictive practices become, the more fragile our hunter based conservation heritage becomes and the more difficult recruitment and retention become. At a time when we should be exploring every opportunity to recruit new hunters we can not afford these types of self serving interests.

Thank you for your support of HB 165.



Rick Young

"I should much regret to see grow up in this country a system of large private game preserves kept for the enjoyment of the very rich. One of the chief attractions of the life of the wilderness is its rugged and stalwart democracy. There every man stands for what he actually is and can show himself to be."

Theodore Roosevelt

Cc: BGCSB

This is a fairly straightforward issue, and problem, and I hope the legislature will move this bill through committee quickly and pass it so that other important issues before the House can be heard and addressed.

Thank you for allowing ABHA to comment on this bill, and for your service to the state and your constituents.

Sincerely,

Mark Richards

Co-chair Alaska Backcountry Hunters and Anglers

Suzanne Hancock, Chief of Staff
Rep Gabrielle LeDoux
Alaska State Capital Building
District 36
Juneau, AK 99801-1121

March 5, 2007

Re: HB 165

Dear Rep LeDoux,

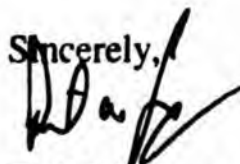
I am writing to encourage you to support HB165. While I understand the concerns the guiding hunting industry has in opposing this on economic grounds, and that the State of Alaska may oppose because of hunter safety, I feel a sizeable sector of the hunting public may only be able to afford the wonders of Alaska on an unguided or limited outfitted trip.

I made my first hunting trip to Alaska in 2005 and currently have one planned for 2007, and hopefully several more in the future. I am fully capable of hunting in your great state with limited assistance for many species. And also realize that I will need to include the services of a licensed guide/outfitter for others. However, I would like to be able to continue to have the option to decide what would be best for my planned adventure.

If I were not able to experience Alaska on a limited outfitted trip in 2005, I may not have been able to go at all. And may not ever get there or only once in my lifetime. Several of my hunting friends that had given up on ever going there because of the costs, are now interested in going because of the lower costs of a partially outfitted trip. I believe that these types of hunters have more to offer the hunting economy of Alaska than only the few that can afford fully guided and outfitted trips.

Thank you for your time, and I urge you to support HB165.

Sincerely,



Rick W. Lange
Prairie du Chien, WI

Suzanne Hancock

From: jklutsch [jklutsch@bristolbay.com]
Sent: Wednesday, April 04, 2007 11:19 AM
To: Suzanne Hancock
Subject: Re: FW:

April 4, 2007

Alaska Professional Hunters Association
HC60 Box 299C
Copper Center, Alaska 99573

Honorable Gabrielle LeDoux
State of Alaska House of Representatives State Capitol Juneau, Alaska 99801

Dear Representative LeDoux,

I am writing on behalf of APHA to indicate our support for HB 165. This statute change will clarify sections of the guide law which have caused some confusion about who is able to offer big game hunting services and under what circumstances. The rental of a cabin on privately owned land to hunters is legitimate. However, offering additional services in the field such as packing or providing field camps and supplies (outfitting) must require a Registered or Master Guide license along with the associated land use authorizations and guide use area registrations. To transport hunters by boat or aircraft requires a Transporter license with the associated U.S. Coast Guard license or FAA Air Carrier certificate.

During the mid 1980's, an unlicensed group of people proliferated throughout the state billing themselves as "outfitters" and were for all practical purposes offering all the services of a big game guide. They were able to do so because "outfitting" was not defined in guide statutes. This group of individuals could not be held accountable for their actions; the hunting public who booked with them were often misled about the services they were to be provided, and the wildlife resources suffered undue impact. We were able to rectify this in subsequent legislation. This bill will clarify the issue of cabin rental while insuring that guiding, outfitting and transporting services require the appropriate licensure and adherence to the associated regulatory requirements.

Thank You for your efforts in this regard,

Sincerely,

Joe Klutsch
President - APHA

----- Original Message -----

From: "Suzanne Hancock" <Suzanne_Hancock@legis.state.ak.us>
To: <jklutsch@bristolbay.com>
Sent: Wednesday, April 04, 2007 9:17 AM
Subject: FW:

Suzanne Hancock, Chief of Staff
Representative Gabrielle LeDoux
District 36

Capitol, Juneau, Alaska 99801
(907) 465-2487
(907) 465-4956 (fax)

-----Original Message-----

From: Suzanne Hancock