

BILLS 1981 - 1982

HB 199 cont. - SSHB 200

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L.A. Fin...

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1 is capable of, and intends to, use the area in the next calendar year.  
2 Use of a guide area does not include use of the area by a subcontractor  
3 of a guide or the loan of the use of the area to another master or  
4 registered guide.

5 (g) A guide may not be assigned more than three exclusive or  
6 joint use guide areas which are in effect during the same year.

7 \* Sec. 14. AS 08.54.200(a) is amended to read:

8 (a) The board shall hold a hearing to determine if disciplinary  
9 action is necessary if within the five years immediately preceding the  
10 hearing

11 (1) complaints concerning the guide's guiding activities  
12 [LICENSEE] have been filed with the board or other state agency from  
13 three or more clients of separate parties and the division of fish and  
14 wildlife protection, Department of Public Safety, finds after investi-  
15 gation that the complaints appear to be valid; or

16 (2) a licensee has been charged with a violation of federal  
17 or state hunting, sport fishing, trapping, or guiding laws [FISH, GAME  
18 OR GUIDE STATUTES] or regulations; or

19 (3) a licensee has been convicted of a violation of a federal  
20 or state hunting, sport fishing, trapping, or guiding law [FISH, GAME  
21 OR GUIDE STATUTE] or regulation.

22 \* Sec. 15. AS 08.54.200(c)(3) is repealed and reenacted to read:

23 (3) has been convicted of the following violations within  
24 the five years immediately preceding the hearing:

25 (A) waste of a wild food animal;

26 (B) hunting on the same day that the guide and his  
27 clients are airborne;

28 (C) hunting in an area closed by a state game law or  
29 regulation;

1 (D) hunting during a closed hunting season; or

2 (E) hunting in an exclusive or joint use guide area

3 which is not assigned to the guide.

4 \* Sec. 16. AS 08.54.200(d) is amended to read:

5 (d) No person who is disciplined under this section may engage in  
6 any guiding [OR TRANSPORTING] activity during the period of license re-  
7 vocation or disciplinary action. No person licensed under this chapter  
8 may hire or work for a guide whose license is suspended or revoked un-  
9 der this section.

10 \* Sec. 17. AS 08.54.200 is amended by adding new subsections to read:

11 (f) If a certified copy of a judgment of a conviction of a guide  
12 for a crime described in (c)(3) of this section is filed with the  
13 board, the board may immediately suspend the guide's license. The  
14 suspension may be ordered even if the conviction resulted from a plea  
15 of nolo contendere or the conviction is under appeal to a higher court.  
16 The order remains in effect until after the final disposition of the  
17 disciplinary proceeding under this section.

18 (g) A certified copy of a judgment of conviction of a guide for  
19 any crime is conclusive evidence of the commission of that crime in any  
20 disciplinary proceeding instituted against him under this section based  
21 upon the conviction.

22 \* Sec. 18. AS 08.54.210 is amended to read:

23 Sec. 08.54.210. UNLAWFUL ACTS. (a) It is unlawful for

24 (1) a master guide, registered guide, class-A assistant  
25 guide, or assistant guide [OR TRANSPORTER] to fail to timely report to  
26 the Department of Public Safety, division of fish and wildlife protec-  
27 tion, and in no event later than 30 days, violations [BY A CLIENT] of a  
28 state fish, game or guiding statute or regulation;

29 (2) a master guide, registered guide, class-A assistant

1 guide, or assistant guide [OR TRANSPORTER] to aid the commission of a  
2 violation of this chapter or of AS 16.05 or a regulation promulgated  
3 under either chapter, or permit the commission of a violation in his  
4 sight without attempting to prevent it, short of using force, and with-  
5 out reporting it;

6 (3) a person to guide [OR TRANSPORT] as defined in this  
7 chapter without being licensed under this chapter and without having  
8 the license in his actual possession; [HOWEVER, FOR PURPOSES OF TRANS-  
9 PORTING BY AIR, IN THE CASE OF A CORPORATION, COMPANY, PARTNERSHIP OR  
10 OTHER BUSINESS ENTITY, THE LICENSE MAY REMAIN AT THE PRINCIPAL PLACE OF  
11 BUSINESS OF THE BUSINESS ENTITY;]

12 (4) a person to advertise as or represent himself to be a  
13 licensed master guide, registered guide, class-A assistant guide, or  
14 assistant guide [OR TRANSPORTER] without being currently licensed, or  
15 to falsely advertise services;

16 (5) a person to guide as defined in this chapter without  
17 having a current valid hunting and fishing license in his possession;  
18 [.]

19 (6) a master or registered guide to employ or have under his  
20 supervision more than three assistant guides at the same time; [.]

21 (7) a person to guide as defined in this chapter without  
22 paying a fee as prescribed in AS 16.05.340(e).

23 (b) A person who violates (a)(1) - (6) of this section is guilty  
24 of a misdemeanor and upon conviction is punishable by a fine of not  
25 more than \$1,000 or by imprisonment for not more than one year, or by  
26 both, and may have his license revoked for a period up to five years.  
27 However, a person who engages in guiding [OR TRANSPORTING] activity  
28 during the period his license is suspended or revoked under this chap-  
29 ter is guilty of a felony punishable, upon conviction, by a fine of not

1 more than \$5,000 and by imprisonment for not less than one year nor  
2 more than three years. In addition to punishment for a felony, all  
3 guns, fishing tackle, boats, aircraft, automobiles or other vehicles,  
4 camping gear and other equipment and paraphernalia used in, or in aid  
5 of, guiding [OR TRANSPORTING] activity engaged in during the period of  
6 suspension or revocation shall be confiscated by persons authorized to  
7 enforce this chapter. A person who violates (a)(7) of this section,  
8 upon conviction, is subject to the same license revocation provision as  
9 for a violation of (a)(1) - (6) of this section and, in addition, is  
10 punishable by a fine of not more than \$5,000, or by imprisonment for  
11 not more than one year, or by both.

12 \* Sec. 19. AS 08.54.240(1) is amended to read:

13 (1) "board" means the Guide [LICENSING AND CONTROL] Board;

14 \* Sec. 20. AS 08.54.240(2) is amended to read:

15 (2) "guide" [, "GUIDES"] or "guiding"

16 (A) means assisting another person to take or attempt  
17 to take big game with the intent of receiving monetary or material  
18 remuneration for the service [SERVICES], by accompanying or [AND]  
19 directing that person personally or through an employee or [A LI-  
20 CENSED] assistant guide; and

21 (B) includes a person who transports another person to  
22 a hunting area and supplies meat packers, camps, hunting equipment,  
23 or other services for monetary or material remuneration [FOR THE  
24 DURATION OF A HUNT, AND NOT SOLELY FOR THE PURPOSE OF PROVIDING  
25 TRANSPORTATION SERVICES];

26 \* Sec. 21. AS 08.54.240(4) is amended to read:

27 (4) "unethical activity" means

28 (A) deception or misrepresentation [IN ANY DEGREE] in-  
29 volving prospective or actual clients either before, during, or

1 following a contract hunt including, but not limited to, misrepre-  
2 sentation through private or public advertising of the type, dura-  
3 tion, cost, or conditions of the contract hunt [HUNTS];

4 (B) [MISREPRESENTATION EITHER THROUGH PRIVATE COMMUNI-  
5 CATION OR PUBLIC ADVERTISING OF THE NATURE, TYPE, DURATION, COST,  
6 OR OTHER CONDITIONS OF CONTRACT HUNTS.]

7 (C) making a guaranty or money-back promise that a  
8 species or certain number of species of game will be taken on a  
9 contract hunt;

10 (D) unsafe or unsportsmanlike activities that are detri-  
11 mental to the game resources of the state or to the guiding pro-  
12 fession, as defined by regulations of the board, including viola-  
13 tions of state or federal hunting, sport fishing, trapping, or  
14 guiding laws or regulations; [.]

15 \* Sec. 22. AS 39.50.200(b) is amended by adding a new paragraph to read:

16 (44) the Guide Board (AS 08.54).

17 \* Sec. 23. AS 08.03.010(b)(7); AS 08.54.040(b), 08.54.045, 08.54.142 --  
18 08.54.146, 08.54.170(c), and 08.54.240(5) are repealed.

19 \* Sec. 24. This Act takes effect July 1, 1981.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 199 (2d Resources)  
 Title An Act relating to guiding; and providing for an effective date.  
 Requested by Governor Date 3-1-82

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development  
 Program Category Affected Public Protection  
 BRU, Program, Or Subprogram(s) Affected Regulation & licensing of professions; board & admin.  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL		6.8	7.5	8.2	9.0	9.9
300 CONTRACTUAL		3.0	.0	.0	.0	.0
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		9.8	7.5	8.2	9.0	9.9

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		9.8	7.5	8.2	9.0	9.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

TRAVEL - 10% inflation factor projected.

Annual meeting in Nome area, to address concerns of guides in Northwestern region of the state; 7 members and 1 department staff, travel costs plus 5 days per diem @ \$80/day:

Travel	\$ 3,590
Per diem	3,200
	<u>\$ 6,790</u>

CONTRACTUAL -

Reprinting and distribution costs of new guide board statute and regulation booklets, applications and renewal forms. (one time cost FY'83) - \$2,000.00  
 In anticipation of special guide license regulations for guiding of marine mammals, additional costs of regulation public notices and teleconference public hearings estimated in FY'83: \$1,000.00

IV. DATE March 3, 1982

PREPARED BY Mariorie Odland  
 AGENCY Division of Occupational Licensing  
 PHONE 465-2535

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

14B199

February 18, 1981

The Honorable Jim Duncan  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill amending the Guide Licensing and Control Board law, AS 08.54. The bill would continue the existence of the guide board which, if not continued by the legislature, is scheduled to terminate on June 30, 1981. The bill would also delete licensing of transporters which, under existing law is difficult to enforce. The major points covered in the bill are set out below.

Section 2 would provide for sunset review of the guide board in June 1984.

Section 5 would move to a more logical place in AS 08.54 the board's authority to give oral examinations to residents of the state who, because of a language barrier, are unable to take a written test.

Section 10 would prohibit an assistant guide from contracting for a hunt. This prohibition had been inferred under existing law, but would be clearly stated to avoid confusion.

Section 11 would require the board to give guide examinations in various locations in the state to allow easier access by applicants who reside in rural areas.

Sections 12, 16, and 18 would delete language concerning transporters from existing law and is consistent with the amendments proposed for the definitions of "guiding" contained in section 20.

Section 13 would establish the authority of the board to grant exclusive and joint use guide areas, and would provide a mechanism for board review of complaints regarding the assignment of existing areas. This section

would also establish criteria for allocation of guide areas, and would enact into law some of the board's regulatory requirements for use of these areas.

Section 14 would amend the grounds for the discipline of licensed guides, to specify that the board may not hold disciplinary hearings on matters that occurred more than five years before the hearing is convened. This section would allow a preliminary review of complaints by the division of fish and wildlife protection to screen out frivolous or unfounded complaints from clients of guides. Under existing law the board may suspend, revoke, or take other action (or no action) against a guide's license, but must revoke for certain other violations. Section 14 would amend existing law to make a suspension or revocation, based on a finding of incompetency, discretionary rather than mandatory as provided under existing law.

Section 15 would require revocation of a guide license if the guide was convicted twice of the five most serious game violations within the preceding five years. Existing law does not limit this revocation to serious fish and game crimes and does not specify how recent a conviction must be before it ceases to be a ground for revocation.

Section 17 adds new subsections to AS 08.54.200 which would allow the board to immediately suspend the license of a guide if it receives a certified copy of a judgment of conviction of the guide for commission of four serious fish and game crimes. This is a procedure similar to that authorized for other agencies, including discipline of attorneys in the state under the Alaska Bar Rules. The suspension would remain in effect until a hearing is held by the board.

Section 18 would make a guide criminally responsible if he fails to report a fish and game violation which he witnessed. Under existing law, a guide is responsible only if he witnesses a violation committed by a client.

Section 20 would make amendments to the definition of "guide" to delete the provisions that guiding means accompanying a client for the duration of the hunt. This amendment will help enforcement of illegal guiding. It is possible under the existing definition for a guide to circumvent prosecution for guiding without a license by avoiding being with the client for the duration of the hunt. Certain persons who transport hunters to hunting areas and supply hunting and camping equipment would be under the licensing jurisdiction of the guide board under another amendment proposed in section 20.

Section 21 would amend the definition of "unethical activity" to make clear the scope of that activity so that disciplinary cases can either be avoided by a guide because he knows what conduct is prohibited or easily prosecuted by the board.

Section 22 would make the guide board subject to the conflict of interest law.

Section 23 would repeal (1) redundant sections allowing oral examinations which would be covered by the amendment proposed in section 5 of the bill; and (2) the requirement that a transporter be licensed by the guide board.

Sincerely,

*S/SSH*

Jay S. Hammond  
Governor

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 199 (Page 1 of 2)

Title "An act relating to the Guide Board; and providing an effective date

Requested by Governor

Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Department of Commerce and Economic Development

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Regulation and Licensing of Guides

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	0
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-				

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

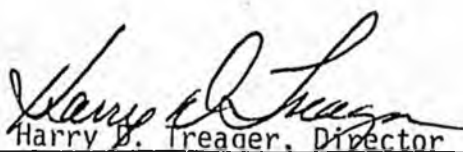
	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-				
TEMPORARY	-0-	-0-				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No Fiscal impact, functions are currently budgeted.  
No additional funding necessary.

IV. DATE 2-13-81

PREPARED BY

  
Harry B. Treador, Director

AGENCY

Division of Occupational Licensing

PHONE

465-2534

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 199 (Page 2 of 2)  
 Title An act relating to the Guide Board  
 Requested by Governor Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Public Safety  
 Program Category Affected NRMEC  
 BRU, Program, or Subprogram(s) Affected Fish & Wildlife Protection  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		- 0 -	- 0 -	- 0 -		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There will be no fiscal impact.

IV. DATE February 17, 1981

PREPARED BY *For Michael J. Clemens*  
Col. Robert J. Stickles  
 AGENCY Public Safety  
 PHONE 269-5535

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

ALASKA STATE LEGISLATURE

SECOND

TWELFTH Legislature FIRST... Session

HOUSE .....BILL..... NO. ...199..

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act relating to the Guide Board; and providing for an effective date."

Guide Board

Introduced in the House ....2/19., 19...81

HISTORY IN THE HOUSE

19 81	Read first time and referred to Committee on
Feb. 19	Resources
May 4	<i>From Rules to Finance</i>
Apr 23	Reported back with recommendation that
	<i>Resources, C.S. (2d. Res.) 3d. Res. 2nd Res. - 2d. Res. 3d. Res. - 2d. Res.</i>
May 4	<i>From Finance to Finance</i>
1982	
Jan 12	<i>From Finance. Ref to Resources then back to Finance</i>
Mar 1	<i>Resources - C.S. (2d. Res.) 3d. Res.</i>
	Read second time and
Mar 1	<i>1 no Res, 1 do not pass to Finance from Finance. To Judiciary then Finance.</i>
	Read third time and
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reconsideration
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reported correctly engrossed
	Signed by Speaker
	Sent to Senate
	CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Read first time and referred to Committee on
	Reported back with recommendation that
	Read second time and
	Read third time and
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reconsideration
	PASS Effective Date
	Yeas Yeas
	Nays Nays
	Absent Absent
	Excused Excused
	Reported correctly engrossed
	Signed by President
	Returned to House
	SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 199  
 Title An Act Relating To Guiding  
 Requested by Rules/Governor Date 3/11/82

II. FISCAL DETAIL

Agency Affected Department of Public Safety  
 Program Category Affected NRMEC  
 BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL						

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 3/11/82

PREPARED BY Colonel Robert J. Stickle  
 AGENCY Department of Public Safety  
 PHONE 269-5532

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

*Prute*

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 199  
 Title An Act Relating To Guiding  
 Requested by Rules/Governor Date 3/11/82

II. FISCAL DETAIL

Agency Affected Department of Public Safety  
 Program Category Affected NRMEC  
 BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE 3/11/82 PREPARED BY Colonel Robert J. Stickles  
 AGENCY Department of Public Safety  
 Original: Legislative Finance PHONE 269-5532  
 cc: Budget and Management *(Signature)*  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 199 (Judiciary)  
Title An Act relating to guiding; and providing for an effective date.  
Requested by House Judiciary Committee Date 3-1-82

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development  
Program Category Affected Public Protection

BRU, Program, Or Subprogram(s) Affected Regulation & licensing of professions; boards  
(Note: If more than one budget component is affected, separate line-item & admin. amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL		6.8	7.5	8.2	9.0	9.9
300 CONTRACTUAL		3.0	.0	.0	.0	.0
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		9.8	7.5	8.2	9.0	9.9

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		9.8	7.5	8.2	9.0	9.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

TRAVEL - .0% inflation factor projected.

Annual meeting in Nome area, to address concerns of guides in Northwestern region of the state; 7 members and 1 department staff, travel costs plus 5 days per diem @ \$80/day:

Travel	\$ 3,590
Per diem	3,200
	<u>\$ 6,790</u>

CONTRACTUAL -

Reprinting and distribution costs of new guide board statute and regulation booklets, applications and renewal forms. (one time cost FY'83) - \$2,000.00

In anticipation of special guide license regulations for guiding of marine mammals, additional costs of regulation public notices and teleconference public hearings estimated in FY'83: \$1,000.00

IV. DATE March 9, 1982

PREPARED BY Marjorie Odland  
AGENCY Division of Occupational Licensing  
PHONE 465-2535

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

**THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE**

**FISCAL NOTE**

**I. REQUEST**

Bill/Resolution No. CSHB 199 (2d Resources)  
 Title An Act relating to guiding; and providing for an effective date.  
 Requested by Governor Date 3-1-82

**II. FISCAL DETAIL**

Agency Affected Department of Commerce & Economic Development  
 Program Category Affected Public Protection

BRU, Program, Or Subprogram(s) Affected Regulation & licensing of professions; boards & admin.  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

**EXPENDITURES (Thousands of Dollars)**

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL		6.8	7.5	8.2	9.0	9.9
300 CONTRACTUAL		3.0	.0	.0	.0	.0
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>9.8</b>	<b>7.5</b>	<b>8.2</b>	<b>9.0</b>	<b>9.9</b>

**FUNDING (Thousands of Dollars)**

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		9.8	7.5	8.2	9.0	9.9
FEDERAL FUNDS						
OTHER (Specify Source)						

**POSITIONS**

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		0	0	0	0	0
PART TIME						
TEMPORARY						

**III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)**

TRAVEL - 10% inflation factor projected.

Annual meeting in Nome area, to address concerns of guides in Northwestern region of the state; 7 members and 1 department staff, travel costs plus 5 days per diem @ \$80/day:

Travel	\$ 3,590
Per diem	3,200
	<u>\$ 6,790</u>

CONTRACTUAL -

Reprinting and distribution costs of new guide board statute and regulation booklets, applications and renewal forms. (one time cost FY'83) - \$2,000.00  
 in anticipation of special guide license regulations for guiding of marine mammals, additional costs of regulation public notices and teleconference public hearings estimated in FY'83: \$1,000.00

IV. DATE March 3, 1982

PREPARED BY Marjorie Odland  
 AGENCY Division of Occupational Licensing  
 PHONE 465-2535

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

Original sponsor: Rules/Governor

Offered: 3/5/82  
Referred: Finance

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 199 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to guiding; and providing for an  
7 effective date."

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

9 \* Section 1. AS 08.01.010(20) is amended to read:

10 (20) Guide [LICENSING AND CONTROL] Board;

11 \* Sec. 2. AS 08.03.010(c)(20) is amended to read:

12 (20) Guide [LICENSING AND CONTROL] Board (AS 08.54.010) --  
13 June 30, 1984 [1982].

14 \* Sec. 3. AS 08.54.010 is amended to read:

15 ARTICLE 1. GUIDE [LICENSING AND CONTROL] BOARD.

16 Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. For the pur-  
17 poses of licensing and regulating the activities of guides in the best  
18 interests of the state's wildlife resources, there [THERE] is created  
19 in the Department of Commerce and Economic Development the Guide [LI-  
20 CENSING AND CONTROL] Board consisting of seven members. Three members  
21 of the board must be licensed registered or master guides who are ac-  
22 tively involved in the guiding profession. The other members of the  
23 board shall be knowledgeable and experienced with the fish and game  
24 resources of the state but may not be licensed guides. Each member  
25 shall have been a resident of the state for at least 10 years [NO MORE  
26 THAN THREE MEMBERS OF THE BOARD SHALL HAVE A GUIDE LICENSE. THE OTHER  
27 MEMBERS SHALL HAVE A GENERAL KNOWLEDGE OF THE GAME RESOURCES OF THE  
28 STATE. A MINIMUM OF 10 YEARS RESIDENCE IN THE STATE IS REQUIRED FOR  
29 ALL MEMBERS OF THE BOARD].

1 \* Sec. 4. AS 08.54.020 is amended to read:

2       Sec. 08.54.02C. APPOINTMENT AND TERM OF OFFICE. The members of  
3 the board shall be appointed by the governor and confirmed by the  
4 legislature for staggered terms of three years or until their successors  
5 are appointed. [INITIAL TERMS ARE AS FOLLOWS: THREE MEMBERS FOR ONE  
6 YEAR, TWO MEMBERS FOR TWO YEARS, AND TWO MEMBERS FOR THREE YEARS.] A  
7 member may be removed at the pleasure of the governor.

8 \* Sec. 5. AS 08.54.030 is amended to read:

9       Sec. 08.54.030. CHAIRMAN OF THE BOARD. The board shall elect one  
10 of its members to serve as chairman for a period of two years. If a  
11 chairman resigns or his term as a board member expires sooner than two  
12 years after his election as chairman and he is not reappointed to the  
13 board, the board may elect an acting chairman. When all vacancies on  
14 the board are filled, the board shall elect a new chairman.

15 \* Sec. 6. AS 08.54 is amended by adding a new section to read:

16       Sec. 08.54.035. QUORUM: REQUIRED MAJORITY VOTE. Four members of  
17 the board constitute a quorum for the transaction of business, for the  
18 performance of any duty, and for the exercise of any power under this  
19 chapter. However, the board may not adopt a regulation, revoke, sus-  
20 pend, or deny renewal of a license, unless the action is approved by a  
21 vote of a majority of the full membership of the board.

22 \* Sec. 7. AS 08.54.040(a)(2) is amended to read:

23       (2) determine [AND PASS ON] qualifications of applicants for  
24 licenses and authorize the issuance of licenses to those who qualify;

25 \* Sec. 8. AS 08.54.040(a)(4) is amended to read:

26       (4) compile, maintain and publish a [GUIDE] register of  
27 guides who have not been convicted of a violation of a [FEDERAL OR]  
28 state hunting [SPORT FISH, GAME,] or guiding statute or regulation  
29 during the five years immediately preceding publication; [A GUIDE

1 LISTED IN THE REGISTER WHOSE LICENSE IS REVOKED OR SUSPENDED SHALL BE  
2 REMOVED FROM THE REGISTER WHILE HIS LICENSE IS REVOKED OR SUSPENDED;]

3 \* Sec. 9. AS 08.54.040(a)(5) is repealed and reenacted to read:  
4 (5) collect and maintain records of hunts conducted by  
5 guides;

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7 (b) If a person is unable to competently understand the written  
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9 shall substitute a special oral examination [HE SHALL BE GIVEN THE COM-  
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12 (8) has been licensed as and performed the services of an  
13 assistant guide or a special guide in the state for a part of each of  
14 three years;

15 \* Sec. 12. AS 08.54 is amended by adding a new section to read:  
16 Sec. 08.54.141. PRIVILEGES AND LIMITATIONS OF ASSISTANT GUIDES.  
17 An assistant guide  
18 (1) may not contract for guided hunts; and  
19 (2) shall be supervised by a registered or master guide at  
20 all times while the assistant guide is in the field on guided hunts.

21 \* Sec. 13. AS 08.54.170 is amended to read:  
22 Sec. 08.54.170. ANNUAL [LICENSE] FEES. (a) Annual [LICENSE]  
23 fees for engaging in the profession of guiding are:  
24 (1) master guide license [, ANNUAL] .....\$75  
25 (2) registered guide license [, ANNUAL] ..... 75  
26 (3) class-A assistant guide license [, ANNUAL] ..... 15  
27 (4) assistant guide license [, ANNUAL] ..... 10  
28 (5) special guide license ..... 25  
29 (b) The annual [LICENSE] fee for a master guide, registered

1 guide, special guide, class-A assistant guide, or assistant guide  
2 license is in addition to the fee required for a hunting or fishing  
3 license.

4 [(c) THE LICENSE FEE FOR A TRANSPORTER IS \$10.]

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8 least twice a year. At least once every other year the board shall  
9 give the examination at a location other than Anchorage.

10 \* Sec. 15. AS 08.54.190(a) is amended to read:

11 (a) A master guide, registered guide, special guide, class-A  
12 assistant guide, or assistant guide [OR TRANSPORTER] license expires on  
13 December 31, following issuance.

14 \* Sec. 16. AS 08.54.200(a) is amended to read:

15 (a) The board shall hold a hearing to determine if disciplinary  
16 action is necessary if during the five years immediately preceding the  
17 date of the hearing

18 (1) complaints concerning the licensee's guiding activities  
19 [LICENSEE] have been filed with the board or other state agency from  
20 three or more clients of separate parties and the division of fish and  
21 wildlife protection, Department of Public Safety, finds after investi-  
22 gation that the complaints appear to be valid; or

23 (2) [A LICENSEE HAS BEEN CHARGED WITH A VIOLATION OF FEDERAL  
24 OR STATE SPORT FISH, GAME OR GUIDE STATUTES OR REGULATIONS; OR]

25 (3) a licensee has been convicted of a violation of a  
26 [FEDERAL OR] state hunting or guiding [SPORT FISH, GAME OR GUIDE]  
27 statute or regulation.

28 \* Sec. 17. AS 08.54.200(b) is amended to read:

29 (b) After a hearing, the board may revoke, suspend, or deny

1 renewal of a license if the board finds that the licensee

2 (1) engaged in unethical activity, unsafe activity, or acti-  
3 vity which adversely affects the natural resources of the state when  
4 such activity is unrelated to the legal and legitimate purposes of the  
5 contract hunt; [OR]

6 (2) violated a provision of a [FEDERAL OR] state hunting  
7 [SPORT FISH, GAME] or guiding [GUIDE] statute or regulation.

8 \* Sec. 18. AS 08.54.200(c)(2) is amended to read:

9 (2) is incompetent as a master guide, registered guide,  
10 special guide, class-A assistant guide, or assistant guide;

11 \* Sec. 19. AS 08.54.200(c)(3) is repealed and reenacted to read:

12 (3) during the five years immediately preceding the date of  
13 the hearing has been convicted of a violation of a statute or regulation  
14 prohibiting

15 (A) wanton waste of a wild food animal under AS 16.-  
16 30.010;

17 (B) hunting on the same day that the guide or his clients  
18 are airborne;

19 (C) hunting in an area closed under AS 16.05.255(a)(2);  
20 or

21 (D) hunting during a hunting season closed under AS 16.-  
22 05.255(a)(2).

23 \* Sec. 20. AS 08.54.200(d) is amended to read:

24 (d) A [NO] person who is disciplined under this section may not  
25 engage in any guiding [OR TRANSPORTING] activity during the period of  
26 license revocation or disciplinary action. A person licensed under this  
27 chapter may not hire a person whose license is suspended or revoked to  
28 guide, and a guide whose license is suspended or revoked may not guide  
29 in the employ of a person licensed under this chapter [NO PERSON LICENSED

1 UNDER THIS CHAPTER MAY HIRE OR WORK FOR A GUIDE WHOSE LICENSE IS SUS-  
2 PENDED OR REVOKED UNDER THIS SECTION].

3 \* Sec. 21. AS 08.54.200 is amended by adding new subsections to read:

4 (f) If a certified copy of a judgment of a conviction of a guide  
5 for a crime described in (c)(3) of this section is filed with the board,  
6 the board may immediately suspend the guide's license. The suspension  
7 may be ordered even if the conviction resulted from a plea of nolo  
8 contendere or the conviction is under appeal to a higher court. The  
9 order remains in effect until after the final disposition of the disci-  
10 plinary proceeding under this section.

11 (g) A certified copy of a judgment of conviction of a guide for  
12 any crime is conclusive evidence of the commission of that crime in any  
13 disciplinary proceeding instituted under this section.

14 \* Sec. 22. AS 08.54.210 is repealed and reenacted to read:

15 Sec. 08.54.210. UNLAWFUL ACTS. (a) It is unlawful for

16 (1) a master guide, registered guide, special guide, class-A  
17 assistant guide, or assistant guide to fail to report violations of a  
18 state hunting or guiding statute or regulation to the Department of  
19 Public Safety, division of fish and wildlife protection, within 30 days  
20 after becoming aware of the violations;

21 (2) a master guide, registered guide, special guide, class-A  
22 assistant guide, or assistant guide to aid the commission of a violation  
23 of this chapter or of AS 16.05 or a regulation adopted under either  
24 chapter, or permit the commission of a violation in his sight without  
25 attempting (short of using force) to prevent the violation;

26 (3) a person to advertise as or represent himself to be a  
27 licensed master guide, registered guide, special guide, class-A assis-  
28 tant guide, or assistant guide without being currently licensed, or to  
29 falsely advertise services;

1 (4) a person to guide without having a current valid hunting  
2 license in his possession;

3 (5) a master or registered guide to employ or have under his  
4 supervision more than four assistant guides who are simultaneously and  
5 actively guiding;

6 (6) a person to guide without being licensed under this  
7 chapter;

8 (7) a person to guide during a period in which his license is  
9 suspended, revoked or lapsed under this chapter.

10 (b) A person who violates (a)(1) - (6) of this section is, upon  
11 conviction, guilty of a class A misdemeanor, and, in addition to the  
12 other penalties prescribed by law, the court may revoke the guide license  
13 for a period of up to five years.

14 (c) A person who violates (a)(6) or (7) of this section is, upon a  
15 second conviction of (a)(6) or a conviction of (a)(7), guilty of a class  
16 C felony, and, in addition to other penalties prescribed by law, the  
17 court may revoke the guide license for a period of up to five years. In  
18 addition to punishment for a felony, all guns, fishing tackle, boats,  
19 aircraft, automobiles or other vehicles, camping gear and other equipment  
20 and paraphernalia used in, or in aid of, a second violation of (a)(6) or  
21 a violation of (a)(7) of this section, shall be confiscated by persons  
22 authorized to enforce this chapter.

23 \* Sec. 23. AS 08.54.240(1) is amended to read:

24 (1) "board" means the Guide [LICENSING AND CONTROL] Board;

25 \* Sec. 24. AS 08.54.240(2) is repealed and reenacted to read:

26 (2) "to guide" or "guiding" means assisting another person in  
27 the field either directly or through an agent, employee, or associate in  
28 locating, taking, or attempting to take big game with the intent of  
29 receiving monetary or other material remuneration for the service;

1 \* Sec. 25. AS 08.54.240(4) is amended to read:

2 (4) "unethical activity" means

3 (A) deception or misrepresentation [IN ANY DEGREE] in-  
4 volving prospective or actual clients either before, during, or  
5 following a contract hunt including, but not limited to, misrepre-  
6 sentation through private or public advertising of the type, dura-  
7 tion, cost, or conditions of the contract hunt [HUNTS];

8 (B) [MISREPRESENTATION EITHER THROUGH PRIVATE COMMUNI-  
9 CATION OR PUBLIC ADVERTISING OF THE NATURE, TYPE, DURATION, COST,  
10 OR OTHER CONDITIONS OF CONTRACT HUNTS.]

11 (C) making a guaranty or money-back promise that a  
12 species or certain number of species of game will be taken on a  
13 contract hunt;

14 (D) unsafe or unsportsmanlike activities that are det-  
15 rimonental to the game resources of the state, as defined by regula-  
16 tions of the board, including violations of state or federal hunt-  
17 ing, sport fishing, trapping, or guiding laws or regulations; [.]

18 \* Sec. 26. AS 08.54.142 - 08.54.146, 08.54.185, 08.54.240(5); and AS 16.-  
19 05.340(e) are repealed.

20 \* Sec. 27. The terms of the members of the Guide Licensing and Control  
21 Board are terminated as of the effective date of this Act. The members of  
22 the Guide Board shall be appointed by the governor in accordance with the  
23 provisions of AS 08.54 within 30 days of the effective date of this Act.  
24 Three of the members initially appointed to serve on the Guide Board shall be  
25 appointed to serve a one-year term, two members shall be appointed to serve a  
26 two-year term, and two members shall be appointed to serve a three-year term.

27 \* Sec. 28. The Guide Board shall elect a new chairman under AS 08.54.030  
28 not later than September 1, 1982.

29 \* Sec. 29. This Act takes effect July 1, 1982.

# Alaska House of Representatives

## MEMO



Phone: 465-3725  
Room: 214 Capitol

From the desk of CHIEF CLERK

TO: FINANCE

DATE: 3/2

Pls give the page HB 199 - taken from  
Finance - to Judiciary - then Finance.

Original sponsor: Rules/Governor

Offered: 3/1/82  
Referred: Finance

1 IN THE HOUSE BY THE RESOURCES COMMITTEE  
2 CS FOR HOUSE BILL NO. 199 (2d Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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2 PENDED OR REVOKED UNDER THIS SECTION].

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4 (f) If a certified copy of a judgment of a conviction of a guide  
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11 (g) A certified copy of a judgment of conviction of a guide for  
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18 state hunting or guiding statute or regulation to the Department of  
19 Public Safety, division of fish and wildlife protection, within 30 days  
20 after becoming aware of the violations;

21 (2) a master guide, registered guide, special guide, class-A  
22 assistant guide, or assistant guide to aid the commission of a violation  
23 of this chapter or of AS 16.05 or a regulation adopted under either  
24 chapter, or permit the commission of a violation in his sight without  
25 attempting (short of using force) to prevent the violation;

26 (3) a person to advertise as or represent himself to be a  
27 licensed master guide, registered guide, special guide, class-A assis-  
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1 (4) a person to guide without having a current valid hunting  
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3 (5) a master or registered guide to employ or have under his  
4 supervision more than four assistant guides who are simultaneously and  
5 actively guiding;

6 (6) a person to guide without being licensed under this  
7 chapter;

8 (7) a person to guide during a period in which his license is  
9 suspended, revoked or lapsed under this chapter.

10 (b) A person who violates (a)(1) - (6) of this section is, upon  
11 conviction, guilty of a class A misdemeanor, and, in addition to the  
12 other penalties prescribed by law, may have his license revoked for a  
13 period of up to five years.

14 (c) A person who violates (a)(6) or (7) of this section is, upon a  
15 second conviction of (a)(6) or a conviction of (a)(7), guilty of a class  
16 C felony, and, in addition to other penalties prescribed by law, may  
17 have his license revoked for a period of up to five years. In addition  
18 to punishment for a felony, all guns, fishing tackle, boats, aircraft,  
19 automobiles or other vehicles, camping gear and other equipment and  
20 paraphernalia used in, or in aid of, a second violation of (a)(6) or a  
21 violation of (a)(7) of this section, shall be confiscated by persons  
22 authorized to enforce this chapter.

23 \* Sec. 23. AS 08.54.240(1) is amended to read:

24 (1) "board" means the Guide [LICENSING AND CONTROL] Board;

25 \* Sec. 24. AS 08.54.240(2) is repealed and reenacted to read:

26 (2) "to guide" or "guiding" means assisting another person in  
27 the field either directly or through an agent, employee, or associate in  
28 locating, taking, or attempting to take big game with the intent of  
29 receiving monetary or other material remuneration for the service;

1 \* Sec. 25. AS 08.54.240(4) is amended to read:

2 (4) "unethical activity" means

3 (A) deception or misrepresentation [IN ANY DEGREE] in-  
4 volving prospective or actual clients either before, during, or  
5 following a contract hunt including, but not limited to, misrepre-  
6 sentation through private or public advertising of the type, dura-  
7 tion, cost, or conditions of the contract hunt [HUNTS];

8 (B) [MISREPRESENTATION EITHER THROUGH PRIVATE COMMUNI-  
9 CATION OR PUBLIC ADVERTISING OF THE NATURE, TYPE, DURATION, COST,  
10 OR OTHER CONDITIONS OF CONTRACT HUNTS.]

11 (C) making a guaranty or money-back promise that a  
12 species or certain number of species of game will be taken on a  
13 contract hunt;

14 (D) unsafe or unsportsmanlike activities that are det-  
15 ritamental to the game resources of the state, as defined by regula-  
16 tions of the board, including violations of state or federal hunt-  
17 ing, sport fishing, trapping, or guiding laws or regulations; [.]

18 \* Sec. 26. AS 08.54.142 - 08.54.146, 08.54.185, 08.54.240(5); and AS 16.-  
19 05.340(e) are repealed.

20 \* Sec. 27. The terms of the members of the Guide Licensing and Control  
21 Board are terminated as of the effective date of this Act. The members of  
22 the Guide Board shall be appointed by the governor in accordance with the  
23 provisions of AS 08.54 within 30 days of the effective date of this Act.  
24 Three of the members initially appointed to serve on the Guide Board shall be  
25 appointed to serve a one-year term, two members shall be appointed to serve a  
26 two-year term, and two members shall be appointed to serve a three-year term.

27 \* Sec. 28. The Guide Licensing and Control Board shall elect a new chair-  
28 man under AS 08.54.030 not later than September 1, 1982.

29 \* Sec. 29. This Act takes effect July 1, 1982.

STATE OF ALASKA  
THE LEGISLATURE  
HOUSE OF REPRESENTATIVES

POUCH V, STATE CAPITOL  
JUNEAU, ALASKA 99811

519 Capitol

TO FINANCE COMMITTEE

REMARKS:

HB 199 was taken from Finance to be returned to Resources. It then has a further referral to Finance.

Pls give the page HB 199 which we will send to Resources.

Thanks.

FROM Julie - Clerk's Office DATE 1/13  
3726

LAA 25-H

Cotten

Amendment to CSHB 199

p. 14, line 19

delete "AS 16.05.340(e)"

14B199

February 18, 1981

The Honorable Jim Duncan  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill amending the Guide Licensing and Control Board law, AS 08.54. The bill would continue the existence of the guide board which, if not continued by the legislature, is scheduled to terminate on June 30, 1981. The bill would also delete licensing of transporters which, under existing law is difficult to enforce. The major points covered in the bill are set out below.

Section 2 would provide for sunset review of the guide board in June 1984.

Section 5 would move to a more logical place in AS 08.54 the board's authority to give oral examinations to residents of the state who, because of a language barrier, are unable to take a written test.

Section 10 would prohibit an assistant guide from contracting for a hunt. This prohibition had been inferred under existing law, but would be clearly stated to avoid confusion.

Section 11 would require the board to give guide examinations in various locations in the state to allow easier access by applicants who reside in rural areas.

Sections 12, 16, and 18 would delete language concerning transporters from existing law and is consistent with the amendments proposed for the definitions of "guiding" contained in section 20.

Section 13 would establish the authority of the board to grant exclusive and joint use guide areas, and would provide a mechanism for board review of complaints regarding the assignment of existing areas. This section

would also establish criteria for allocation of guide areas, and would enact into law some of the board's regulatory requirements for use of these areas.

Section 14 would amend the grounds for the discipline of licensed guides, to specify that the board may not hold disciplinary hearings on matters that occurred more than five years before the hearing is convened. This section would allow a preliminary review of complaints by the division of fish and wildlife protection to screen out frivolous or unfounded complaints from clients of guides. Under existing law the board may suspend, revoke, or take other action (or no action) against a guide's license, but must revoke for certain other violations. Section 14 would amend existing law to make a suspension or revocation, based on a finding of incompetency, discretionary rather than mandatory as provided under existing law.

Section 15 would require revocation of a guide license if the guide was convicted twice of the five most serious game violations within the preceding five years. Existing law does not limit this revocation to serious fish and game crimes and does not specify how recent a conviction must be before it ceases to be a ground for revocation.

Section 17 adds new subsections to AS 08.54.200 which would allow the board to immediately suspend the license of a guide if it receives a certified copy of a judgment of conviction of the guide for commission of four serious fish and game crimes. This is a procedure similar to that authorized for other agencies, including discipline of attorneys in the state under the Alaska Bar Rules. The suspension would remain in effect until a hearing is held by the board.

Section 18 would make a guide criminally responsible if he fails to report a fish and game violation which he witnessed. Under existing law, a guide is responsible only if he witnesses a violation committed by a client.

Section 20 would make amendments to the definition of "guide" to delete the provisions that guiding means accompanying a client for the duration of the hunt. This amendment will help enforcement of illegal guiding. It is possible under the existing definition for a guide to circumvent prosecution for guiding without a license by avoiding being with the client for the duration of the hunt. Certain persons who transport hunters to hunting areas and supply hunting and camping equipment would be under the licensing jurisdiction of the guide board under another amendment proposed in section 20.

Section 21 would amend the definition of "unethical activity" to make clear the scope of that activity so that disciplinary cases can either be avoided by a guide because he knows what conduct is prohibited or easily prosecuted by the board.

Section 22 would make the guide board subject to the conflict of interest law.

Section 23 would repeal (1) redundant sections allowing oral examinations which would be covered by the amendment proposed in section 5 of the bill; and (2) the requirement that a transporter be licensed by the guide board.

Sincerely,

S/SSH

Jay S. Hammond  
Governor

CSHB 199 (Res)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 199 (Res)  
 Title An Act relating to guiding; and providing for an effective date.  
 Requested by Resources Committee Date 4-23-81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development  
 Program Category Affected Public Protection  
 BRU, Program, or Subprogram(s) Affected Regulation and licensing of professions; boards & invest  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL		4.0	4.5	-	-	-
300 CONTRACTUAL		51.0	54.6	58.4	62.5	66.9
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		55.0	59.1	58.4	62.5	66.9

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND		55.0	59.1	58.4	62.5	66.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

TRAVEL - projected 2 years for regulation hearing (12% inflation factor)  
 Guide Board, travel & per diem for 2 hearings in Anchorage to receive testimony on proposed regulations, 3 days each. \$ 4,000.00  
CONTRACTUAL - 7% inflation factor projected.  
 Legal notices for regulations, duplication and printing costs for registration forms (special guide category), postage. \$ 1,000.00  
 Hearings - costs estimated at \$50,000 per hearing: hearing officer @ \$55/hour plus travel & per diem; court reporter @ \$20/hour; judicial process approx. \$1,000 per hearing \$ 50,000.00

IV. DATE 4-30-81 PREPARED BY Marjorie Odland  
 AGENCY Division of Occupational Licensing  
 PHONE 465-2535  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

HB 199

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 199  
Title "An act relating to the Guide Board; and providing an effective date"  
Requested by Governor Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Department of Commerce and Economic Development  
Program Category Affected Public Protection  
BRU, Program, or Subprogram(s) Affected Regulation and Licensing of Guides  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS. CLAIMS. ETC.	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>				

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-				
TEMPORARY	-0-	-0-				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No Fiscal impact, functions are currently budgeted.  
No additional funding necessary.

IV. DATE 2-13-81

PREPARED BY Harry B. Treador, Director  
AGENCY Division of Occupational Licensing  
PHONE 465-2534

Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. \_\_\_\_\_  
Title An act relating to the Guide Board  
Requested by Governor Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Public Safety  
Program Category Affected NRMEC  
BRU, Program, or Subprogram(s) Affected Fish & Wildlife Protection  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		- 0 -	- 0 -	- 0 -		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There will be no fiscal impact.

IV. DATE February 17, 1981 PREPARED BY Col. Robert J. Stickles  
AGENCY Public Safety  
PHONE 269-5535  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

Original sponsor: Rules/Governor

Offered: 4/23/81  
Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 199 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to guiding; and providing for an  
7 effective date."

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

9 \* Section 1. AS 08.01.010(20) is amended to read:

10 (20) Guide [LICENSING AND CONTROL] Board;

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

12 (19) Guide Board (AS 08.54.010) -- June 30, 1983.

13 \* Sec. 3. AS 08.54.010 is amended to read:

14 ARTICLE 1. GUIDE [LICENSING AND CONTROL] BOARD.

15 Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. For the pur-  
16 poses of licensing and regulating the activities of guides in the best  
17 interests of the state's wildlife resources, there [THERE] is created  
18 in the Department of Commerce and Economic Development the Guide [LI-  
19 CENSING AND CONTROL] Board consisting of seven members. Three members  
20 of the board must be licensed registered or master guides who are ac-  
21 tively involved in the guiding profession. The other members of the  
22 board shall be knowledgeable and experienced with the fish and game  
23 resources of the state. Each member shall be a resident of the state  
24 for at least 10 years [NO MORE THAN THREE MEMBERS OF THE BOARD SHALL  
25 HAVE A GUIDE LICENSE. THE OTHER MEMBERS SHALL HAVE A GENERAL KNOWLEDGE  
26 OF THE GAME RESOURCES OF THE STATE. A MINIMUM OF 10 YEARS RESIDENCE IN  
27 THE STATE IS REQUIRED FOR ALL MEMBERS OF THE BOARD].

28 \* Sec. 4. AS 08.54.020 is amended to read:

29 Sec. 08.54.020. APPOINTMENT AND TERM OF OFFICE. The members of

1 the board shall be appointed by the governor and confirmed by the  
2 legislature for staggered terms of three years or until their successors  
3 are appointed. [INITIAL TERMS ARE AS FOLLOWS: THREE MEMBERS FOR ONE  
4 YEAR, TWO MEMBERS FOR TWO YEARS, AND TWO MEMBERS FOR THREE YEARS.] A  
5 member may be removed at the pleasure of the governor.

6 \* Sec. 5. AS 08.54 is amended by adding a new section to read:

7 Sec. 08.54.035. QUORUM: REQUIRED MAJORITY VOTE. Four members of  
8 the board constitute a quorum for the transaction of business, for the  
9 performance of any duty, and for the exercise of any power under this  
10 chapter. However, the board may not adopt a regulation, revoke, sus-  
11 pend, or deny renewal of a license, or assign, modify, or revoke an  
12 exclusive guide area, unless the action is approved by a vote of a  
13 majority of the full membership of the board.

14 \* Sec. 6. AS 08.54.040(a)(1) is amended to read:

15 (1) prepare, grade and administer examinations and may sub-  
16 stitute special oral examinations for an applicant with limited English  
17 language reading or writing ability;

18 \* Sec. 7. AS 08.54.040(a)(2) is amended to read:

19 (2) determine [AND PASS ON] qualifications of applicants for  
20 licenses and authorize the issuance of licenses to those who qualify;

21 \* Sec. 8. AS 08.54.040(a)(4) is amended to read:

22 (4) compile, maintain and publish a guide register of guides  
23 who have not been convicted of a violation of a federal or state hunt-  
24 ing, sport fishing, trapping [FISH, GAME], or guiding law [STATUTE] or  
25 regulation within the five years immediately preceding publication; [A  
26 GUIDE LISTED IN THE REGISTER WHOSE LICENSE IS REVOKED OR SUSPENDED  
27 SHALL BE REMOVED FROM THE REGISTER WHILE HIS LICENSE IS REVOKED OR SUS-  
28 PENDED;]

29 \* Sec. 9. AS 08.54.040(a)(5) is repealed and reenacted to read:

1 (5) collect and maintain records of hunts conducted by  
2 guides;

3 \* Sec. 10. AS 08.54.040(a)(8) is amended to read:

4 (8) establish exclusive or joint-use guide areas for regis-  
5 tered and master guides, determine the number of [A QUOTA OF LICENSED  
6 OPERATING] guides who may operate within these designated geographical  
7 areas, [GAME UNITS OR SUBUNITS OF THE STATE] and establish [PROVIDE  
8 FOR] an equitable and reasonable procedure for determining [LIMITING]  
9 the number of guides in an area giving [TO THAT QUOTA;] preference  
10 [SHALL BE GIVEN] to [QUALIFIED AVAILABLE AND WILLING LICENSED] guides  
11 who permanently reside within the designated area if all other quali-  
12 fications of the guides who apply for an area are equal [GAME UNIT OR  
13 SUBUNIT].

14 \* Sec. 11. AS 08.54.045 is repealed and reenacted to read:

15 Sec. 08.54.045. SPECIAL GUIDE LICENSE. The board shall issue a  
16 special guide license to a person who applies to conduct a guided hunt  
17 for musk-ox or for a specific species of marine mammal in a specifically  
18 designated area, if he

19 (1) is 21 years of age or more;

20 (2) is a resident of the state;

21 (3) has resided and hunted in the area of the state in which  
22 he is to guide for at least 10 years;

23 (4) is physically able to perform the duties of a special  
24 guide;

25 (5) has demonstrated knowledge of the following areas to an  
26 extent and degree satisfactory to the board:

27 (A) fish and game laws and regulations;

28 (B) relevant characteristics of the specific species to  
29 be hunted;

- (C) field preparation of trophies;
- (D) care of game meat;
- (E) use of guiding gear;
- (F) firearm safety;
- (G) practical first aid; and
- (H) booking and contracting.

\* Sec. 12. AS 08.54.110(8) is amended to read:

(8) has been licensed as and performed the services of an assistant guide or guided under a special guide license in the state for a part of each of three years;

\* Sec. 13. AS 08.54.110(9) is amended to read:

(9) submits a written recommendation to the board from a registered guide for whom the applicant has worked; however, the requirements of this paragraph do not apply to a person who has guided under a special guide license for three years;

\* Sec. 14. AS 08.54 is amended by adding a new section to read:

Sec. 08.54.141. PRIVILEGES AND LIMITATIONS OF ASSISTANT GUIDES.

An assistant guide

(1) may not contract for guided hunts; and

(2) shall be supervised by a registered or master guide at all times while the assistant guide is in the field on guided hunts.

\* Sec. 15. AS 08.54.170 is amended to read:

Sec. 08.54.170. ANNUAL [LICENSE] FEES. (a) Annual [LICENSE] fees for engaging in the profession of guiding are:

- (1) master guide license [, ANNUAL] .....\$75
- (2) registered guide license [, ANNUAL] ..... 75
- (3) class-A assistant guide license [, ANNUAL] ..... 15
- (4) assistant guide license [, ANNUAL] ..... 10
- (5) special guide license ..... 25

1 (b) The annual [LICENSE] fee for a master guide, registered  
2 guide, special guide, class-A assistant guide, or assistant guide  
3 license is in addition to the fee required for a hunting or fishing  
4 license.

5 [(c) THE LICENSE FEE FOR A TRANSPORTER IS \$10.]

6 \* Sec. 16. AS 08.54 is amended by adding a new section to read:

7 Sec. 08.54.186. REGISTERED GUIDE EXAMINATION. The board shall  
8 administer the qualification examination required under AS 08.54.110 at  
9 least twice a year. At least once every other year the board shall  
10 give the examination at a location other than Anchorage.

11 \* Sec. 17. AS 08.54.190(a) is amended to read:

12 (a) A master guide, registered guide, special guide, class-A  
13 assistant guide, or assistant guide [OR TRANSPORTER] license expires on  
14 December 31, following issuance.

15 \* Sec. 18. AS 08.54 is amended by adding a new section to read:

16 Sec. 08.54.195. GUIDE AREAS. (a) Under AS 08.54.040(a)(8), the  
17 board may establish and assign exclusive or joint-use guide areas for  
18 big game guides. The board shall adopt regulations under the Adminis-  
19 trative Procedure Act (AS 44.62) which establish uniform and consistent  
20 criteria that will be used by the board when it creates an exclusive  
21 or joint-use guide area.

22 (b) The board shall continue in effect all exclusive or joint-use  
23 guide areas assigned before the effective date of this section. How-  
24 ever, the board shall by regulation establish a deadline for guides to  
25 request a hearing before the board to review the assignment of an area.  
26 If requested by a guide, the board shall hold a hearing to determine if  
27 an assignment of an exclusive or joint-use area made before the effec-  
28 tive date of this section creates a substantial injustice as determined  
29 by criteria set out in (c) of this section. If the board determines

1 that an injustice was created, the board shall modify, terminate or re-  
2 assign the area, or take other reasonable steps to correct the injus-  
3 tice.

4 (c) The board may find that an injustice was caused by the assign-  
5 ment of an exclusive or joint-use guide area if

6 (1) a person was unfairly discriminated against;

7 (2) a person who applied for the exclusive or joint-use  
8 guide area was denied a hearing; or

9 (3) a qualified person was not given a preference at the  
10 time the area was assigned in accordance with AS 08.54.040(a)(8).

11 (d) The board shall consider the following before it assigns an  
12 exclusive or joint-use guide area:

13 (1) the extent to which the guide who has applied for the  
14 area has used the game management unit in which the area is located;

15 (2) the extent to which the guide occupied and invested in  
16 the area;

17 (3) the effect on other guides which would result from  
18 creation of the area;

19 (4) big game populations in the area; and

20 (5) the land ownership status of the area.

21 (e) The board may consider any relevant facts or circumstance  
22 before assigning an exclusive or joint-use guide area.

23 (f) A guide who permanently resides in an exclusive or joint-use  
24 guide area is entitled to a preference in accordance with AS 08.54.-  
25 040(a)(8) for the assignment of the area. A guide may not be assigned  
26 an exclusive or joint-use area in a guide district in which he is not  
27 licensed.

28 (g) If after July 1, 1981, a guide has failed to use an exclusive  
29 or joint-use guide area assigned to him for two consecutive years, the

1 board shall, after a hearing, revoke the area and reassign the area  
2 permit. However, for good cause shown, including circumstances beyond  
3 the guide's control, a guide may be excused for not using an area if he  
4 is capable of, and intends to, use the area in the next calendar year.  
5 Use of a guide area does not include use of the area by a subcontractor  
6 of a guide or the loan of the use of the area to another master or  
7 registered guide.

8 (h) A guide may not be assigned more than three exclusive or  
9 joint-use guide areas which are in effect during the same year.

10 \* Sec. 19. AS 08.54.200(a) is amended to read:

11 (a) The board shall hold a hearing to determine if disciplinary  
12 action is necessary if within the five years immediately preceding the  
13 hearing

14 (1) complaints concerning the licensee's guiding activities  
15 [LICENSEE] have been filed with the board or other state agency from  
16 three or more clients of separate parties and the division of fish and  
17 wildlife protection, Department of Public Safety, finds after investi-  
18 gation that the complaints appear to be valid; [OR

19 (2) A LICENSEE HAS BEEN CHARGED WITH A VIOLATION OF FEDERAL  
20 OR STATE SPORT FISH, GAME OR GUIDE STATUTES OR REGULATIONS; OR]

21 (3) a licensee has been convicted of a violation of a feder-  
22 al or state hunting, sport fishing, trapping, or guiding law [FISH,  
23 GAME OR GUIDE STATUTE] or regulation; or

24 (4) a licensee has been convicted of criminal trespass in  
25 the first or second degree (AS 11.46.320 - 11.46.330) during the con-  
26 duct of guiding activities.

27 \* Sec. 20. AS 08.54.200(b) is amended to read:

28 (b) After a hearing, the board may revoke, suspend, or deny  
29 renewal of a license if the board finds that the licensee

1 (1) engaged in unethical activity, unsafe activity, or  
2 activity which adversely affects the natural resources of the state  
3 when such activity is unrelated to the legal and legitimate purposes of  
4 the contract hunt; [OR]

5 (2) violated a provision of a federal or state sport fish,  
6 game or guide statute or regulation; or

7 (3) has been convicted of criminal trespass in the first  
8 or second degree (AS 11.46.320 - 11.46.330) during the conduct of  
9 guiding activities.

10 \* Sec. 21. AS 08.54.200(c)(2) is amended to read:

11 (2) is incompetent as a master guide, registered guide,  
12 special guide, class-A assistant guide, or assistant guide;

13 \* Sec. 22. AS 08.54.200(c)(3) is repealed and reenacted to read:

14 (3) has been convicted of one or more of the following  
15 violations within the five years immediately preceding the hearing:

16 (A) waste of a wild food animal;

17 (B) hunting on the same day that the guide and his  
18 clients are airborne;

19 (C) hunting in an area closed by a state game law or  
20 regulation;

21 (D) hunting during a closed hunting season.

22 \* Sec. 23. AS 08.54.200(d) is amended to read:

23 (d) No person who is disciplined under this section may engage in  
24 any guiding [OR TRANSPORTING] activity during the period of license re-  
25 vocation or disciplinary action. A person licensed under this chapter  
26 may not hire a person whose license is suspended or revoked to guide,  
27 and a guide whose license is suspended or revoked may not guide in the  
28 employ of a person licensed under this chapter [NO PERSON LICENSED  
29 UNDER THIS CHAPTER MAY HIRE OR WORK FOR A GUIDE WHOSE LICENSE IS SUS-

1           PENDED OR REVOKED UNDER THIS SECTION].

2       \* Sec. 24. AS 08.54.200 is amended by adding new subsections to read:

3           (f) If a certified copy of a judgment of a conviction of a guide  
4           for a crime described in (c)(3) of this section is filed with the  
5           board, the board may immediately suspend the guide's license. The  
6           suspension may be ordered even if the conviction resulted from a plea  
7           of nolo contendere or the conviction is under appeal to a higher court.  
8           The order remains in effect until after the final disposition of the  
9           disciplinary proceeding under this section.

10          (g) A certified copy of a judgment of conviction of a guide for  
11          any crime is conclusive evidence of the commission of that crime in any  
12          disciplinary proceeding instituted against him under this section based  
13          upon the conviction.

14          (h) The board may hold a hearing to determine if disciplinary  
15          action is necessary if within the five years immediately preceding the  
16          hearing

17               (1) a licensee has been charged with a violation of federal  
18               or state hunting, sport fishing, trapping, or guiding laws or regula-  
19               tions; or

20               (2) a complaint that the guide has trespassed on private  
21               property during the conduct of guiding activities has been filed with  
22               the board by a landowner.

23       \* Sec. 25. AS 08.54.210 is amended to read:

24           Sec. 08.54.210. UNLAWFUL ACTS. (a) It is unlawful for

25               (1) a master guide, registered guide, special guide, class-A  
26               assistant guide, or assistant guide [OR TRANSPORTER] to fail to timely  
27               report to the Department of Public Safety, division of fish and wildlife  
28               protection, and in no event later than 30 days, violations known to  
29               have been committed by a client or an employee other than a guide of a

1 state hunting, sport fishing, trapping, [FISH, GAME] or guiding law  
2 [STATUTE] or regulation;

3 (2) a master guide, registered guide, special guide, class-A  
4 assistant guide, or assistant guide [OR TRANSPORTER] to aid the commis-  
5 sion of a violation of this chapter or of AS 16.05 or a regulation  
6 adopted [PROMULGATED] under either chapter, or permit the commission of  
7 a violation in his sight without attempting to prevent it, short of  
8 using force, and without reporting it;

9 (3) a person to guide [OR TRANSPORT] as defined in this  
10 chapter without being licensed under this chapter and without having  
11 the license in his actual possession; [HOWEVER, FOR PURPOSES OF TRANS-  
12 PORTING BY AIR, IN THE CASE OF A CORPORATION, COMPANY, PARTNERSHIP OR  
13 OTHER BUSINESS ENTITY, THE LICENSE MAY REMAIN AT THE PRINCIPAL PLACE OF  
14 BUSINESS OF THE BUSINESS ENTITY;]

15 (4) a person to advertise as or represent himself to be a  
16 licensed master guide, registered guide, special guide, class-A assis-  
17 tant guide, or assistant guide [OR TRANSPORTER] without being currently  
18 licensed, or to falsely advertise services;

19 (5) a person to guide as defined in this chapter without  
20 having a current valid hunting [AND FISHING] license in his possession;  
21 [.]

22 (6) a master or registered guide to employ or have under his  
23 supervision more than three [ASSISTANT] guides guiding at the same  
24 time.

25 [(7) A PERSON TO GUIDE AS DEFINED IN THIS CHAPTER WITHOUT  
26 PAYING A FEE AS PRESCRIBED IN AS 16.05.340(e).]

27 (b) A person who violates (a)(1) - (6) of this section is guilty  
28 of a misdemeanor and upon conviction is punishable by a fine of not  
29 more than \$1,000 or by imprisonment for not more than one year, or by

1 both, and may have his license revoked for a period up to five years.  
2 However, a person who engages in guiding [OR TRANSPORTING] activity  
3 during the period his license is suspended or revoked under this chap-  
4 ter is guilty of a felony punishable, upon conviction, by a fine of not  
5 more than \$5,000 and by imprisonment for not less than one year nor  
6 more than three years. In addition to punishment for a felony, all  
7 guns, fishing tackle, boats, aircraft, automobiles or other vehicles,  
8 camping gear and other equipment and paraphernalia used in, or in aid  
9 of, guiding [OR TRANSPORTING] activity engaged in during the period of  
10 suspension or revocation shall be confiscated by persons authorized to  
11 enforce this chapter. [A PERSON WHO VIOLATES (a)(7) OF THIS SECTION,  
12 UPON CONVICTION, IS SUBJECT TO THE SAME LICENSE REVOCATION PROVISION AS  
13 FOR A VIOLATION OF (a)(1) - (6) OF THIS SECTION AND, IN ADDITION, IS  
14 PUNISHABLE BY A FINE OF NOT MORE THAN \$5,000, OR BY IMPRISONMENT FOR  
15 NOT MORE THAN ONE YEAR, OR BY BOTH.]

16 \* Sec. 26. AS 08.54.240(1) is amended to read:

17 (1) "board" means the Guide [LICENSING AND CONTROL] Board;

18 \* Sec. 27. AS 08.54.240(2) is amended to read:

19 (2) "guide" [, "GUIDES"] or "guiding"

20 (A) means assisting another person to take or attempt  
21 to take big game with the intent of receiving monetary or material  
22 remuneration for the service [SERVICES], by accompanying and  
23 directing that person personally or through an employee or [A  
24 LICENSED] assistant guide; and

25 (B) includes a person who transports another person to  
26 a hunting area and supplies meat packers or other personal  
27 services in a hunting area for monetary or material remuneration  
28 [FOR THE DURATION OF A HUNT, AND NOT SOLELY FOR THE PURPOSE OF  
29 PROVIDING TRANSPORTATION SERVICES];

1 \* Sec. 28. AS 08.54.240(4) is amended to read:

2 (4) "unethical activity" means

3 (A) deception or misrepresentation [IN ANY DEGREE] in-  
4 volving prospective or actual clients either before, during, or  
5 following a contract hunt including, but not limited to, misrepre-  
6 sentation through private or public advertising of the type, dura-  
7 tion, cost, or conditions of the contract hunt [HUNTS];

8 (B) [MISREPRESENTATION EITHER THROUGH PRIVATE COMMUNI-  
9 CATION OR PUBLIC ADVERTISING OF THE NATURE, TYPE, DURATION, COST,  
10 OR OTHER CONDITIONS OF CONTRACT HUNTS.]

11 (C) making a guaranty or money-back promise that a  
12 species or certain number of species of game will be taken on a  
13 contract hunt;

14 (D) unsafe or unsportsmanlike activities that are  
15 detrimental to the game resources of the state, as defined by  
16 regulations of the board, including violations of state or fed-  
17 eral hunting, sport fishing, trapping, or guiding laws or regula-  
18 tions; [.]

19 \* Sec. 29. AS 08.54.240 is amended by adding a new paragraph to read:

20 (6) "big game" means brown bear, grizzly bear, polar bear,  
21 caribou, moose, black bear, bison, Sitka blacktail deer, elk, mountain  
22 goat, musk-ox, wolf, wolverine, mountain or Dall sheep, and marine  
23 mammals.

24 \* Sec. 30. AS 16.05.255(a) is amended by adding new paragraphs to read:

25 (11) designating the areas of the state to which AS 16.05.-  
26 407(a) applies;

27 (12) designating additional species of big game to which  
28 AS 16.05.407 applies.

29 \* Sec. 31. AS 16.05.407(a) is amended to read:

1 (a) It is a class A misdemeanor [UNLAWFUL] for a nonresident,  
2 except a nonresident subject to (d) of this section, to hunt, pursue or  
3 take brown bear, grizzly bear, polar bear or sheep or other species of  
4 big game designated in regulations adopted by the Board of Game in  
5 areas of this state designated in regulations adopted by the Board of  
6 Game, unless personally accompanied by a person who is licensed as a  
7 master guide, registered guide or assistant guide under AS 08.54 [BY  
8 THE DEPARTMENT] or [WHO IS PERSONALLY ACCOMPANIED] by a resident Alaskan  
9 over 19 years of age who is the spouse of or is related by blood within  
10 and including the second degree of kindred to the nonresident. A  
11 nonresident [PERSON] who applies for a [NONRESIDENT] big game tag for  
12 the taking of an animal specified in this section or in regulations  
13 adopted under this section shall first furnish to the state, on a form  
14 provided by the state, an affidavit showing that he will be accompanied  
15 in his hunt by a person who is qualified under the terms of this sec-  
16 tion. A person who falsifies the required affidavit is guilty of  
17 perjury under AS 11.56.200.

18 \* Sec. 32. AS 16.05.407 is amended by adding new subsections to read:

19 (d) It is a class A misdemeanor for a nonresident alien to hunt,  
20 pursue or take brown bear, grizzly bear, polar bear, sheep, caribou, or  
21 moose in this state unless personally accompanied by a person who is  
22 licensed as a master guide, registered guide, or assistant guide under  
23 AS 08.54 or by a resident Alaskan over 19 years of age who is the  
24 spouse of or is related by blood within and including the second degree  
25 of kindred to the alien. The board may by regulation designate addi-  
26 tional species of big game which may not be hunted by a nonresident  
27 alien unless the nonresident alien is personally accompanied by a  
28 person licensed as a master guide, registered guide, or assistant guide  
29 under AS 08.54 or by a resident Alaskan over 19 years of age who is the

1 spouse of or is related by blood within and including the second degree  
2 of kindred to the alien. A nonresident alien who applies for a big  
3 game tag for the taking of an animal specified in this section shall  
4 first furnish to the state, on a form provided by the state, an affi-  
5 davit showing that he will be accompanied in his hunt by a person who  
6 is qualified under the terms of this section. A person who falsifies  
7 the required affidavit is guilty of perjury under AS 11.56.200.

8 (e) In this section,

9 (1) "big game" includes brown bear, grizzly bear, polar  
10 bear, caribou, moose, black bear, bison, Sitka blacktail deer, elk,  
11 mountain goat, musk-oxen, wolf, wolverine, mountain or Dall sheep and  
12 marine mammals;

13 (2) "nonresident alien" means a person who is not a citizen  
14 of the United States and whose permanent place of abode is not in the  
15 United States.

16 \* Sec. 33. AS 39.50.200(b) is amended by adding a new paragraph to read:

17 (44) the Guide Board (AS 08.54).

18 \* Sec. 34. AS 08.03.010(b)(7); AS 08.54.040(b), 08.54.142 - 08.54.146,  
19 08.54.185, 08.54.240(5); AS 16.05.340(e), and 16.05.407(c) are repealed.

20 \* Sec. 35. The terms of the members of the Guide Licensing and Control  
21 Board are terminated as of the effective date of this Act. The members of  
22 the Guide Board shall be appointed by the governor in accordance with the  
23 provisions of AS 08.54 within 30 days of the effective date of this Act.  
24 Three of the members initially appointed to serve on the Guide Board shall  
25 be appointed to serve a one-year term, two members shall be appointed to  
26 serve a two-year term, and two members shall be appointed to serve a three-  
27 year term.

28 \* Sec. 36. This Act takes effect July 1, 1981.

29

Introduced: 2/19/81  
Referred: Resources

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 199

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Guide Board; and providing for  
7 an effective date."

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

9 \* Section 1. AS 08.01.010(20) is amended to read:

10 (20) Guide [LICENSING AND CONTROL] Board;

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

12 (19) Guide Board (AS 08.54.010) -- June 30, 1984.

13 \* Sec. 3. AS 08.54.010 is amended to read:

14 ARTICLE 1. GUIDE [LICENSING AND CONTROL] BOARD.

15 Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. For the pur-  
16 poses of licensing and regulating the activities of guides in the best  
17 interests of the state's wildlife resources, there [THERE] is created  
18 in the Department of Commerce and Economic Development, the Guide [LI-  
19 CENSING AND CONTROL] Board consisting of seven members. Not more than  
20 three members of the board may be licensed registered or master guides  
21 who are actively involved in the guiding profession. The other members  
22 of the board shall be knowledgeable and experienced with the fish and  
23 game resources of the state. All members shall be residents of the  
24 state for at least 10 years [NO MORE THAN THREE MEMBERS OF THE BOARD  
25 SHALL HAVE A GUIDE LICENSE. THE OTHER MEMBERS SHALL HAVE A GENERAL  
26 KNOWLEDGE OF THE GAME RESOURCES OF THE STATE. A MINIMUM OF 10 YEARS  
27 RESIDENCE IN THE STATE IS REQUIRED FOR ALL MEMBERS OF THE BOARD].

28 \* Sec. 4. AS 08.54 is amended by adding a new section to read:

29 Sec. 08.54.035. QUORUM. Four members of the board constitute a

1 quorum for the transaction of business; for the performance of any du-  
2 ty, and for the exercise of any power under this chapter. However, a  
3 majority of the members of the board must vote for the adoption of a  
4 regulation or to revoke, suspend, or deny renewal of a license.

5 \* Sec. 5. AS 08.54.040(a)(1) is amended to read:

6 (1) prepare, grade and administer examinations and may sub-  
7 stitute special oral examinations for an applicant who is unable to  
8 read or speak the English language;

9 \* Sec. 6. AS 08.54.040(a)(2) is amended to read:

10 (2) determine [AND PASS ON] qualifications of applicants for  
11 licenses and authorize the issuance of licenses to those who qualify;

12 \* Sec. 7. AS 08.54.040(a)(4) is amended to read:

13 (4) compile, maintain and publish a guide register of guides  
14 who have not been convicted of a violation of a federal or state hunt-  
15 ing, sport fishing, trapping, [FISH, GAME,] or guiding law [STATUTE] or  
16 regulation within the five years immediately preceding publication; [A  
17 GUIDE LISTED IN THE REGISTER WHOSE LICENSE IS REVOKED OR SUSPENDED  
18 SHALL BE REMOVED FROM THE REGISTER WHILE HIS LICENSE IS REVOKED OR SUS-  
19 PENDED;]

20 \* Sec. 8. AS 08.54.040(a)(5) is repealed and reenacted to read:

21 (5) collect and maintain records of hunts conducted by  
22 guides;

23 \* Sec. 9. AS 08.54.040(a)(8) is amended to read:

24 (8) establish guide areas for registered and master guides,  
25 limit the number of [A QUOTA OF LICENSED OPERATING] guides who may op-  
26 erate within these designated geographical areas [GAME UNITS OR SUB-  
27 UNITS OF THE STATE] and establish [PROVIDE FOR] an equitable and rea-  
28 sonable procedure for limiting the number of guides in an area giving  
29 [TO THAT QUOTA;] preference [SHALL BE GIVEN] to [QUALIFIED AVAILABLE

Introduced: 2/19/81  
Referred: Resources

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 199

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Guide Board; and providing for  
7 an effective date."

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

9 \* Section 1. AS 08.01.010(20) is amended to read:

10 (20) Guide [LICENSING AND CONTROL] Board;

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

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14 ARTICLE 1. GUIDE [LICENSING AND CONTROL] BOARD.

15 Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. For the pur-  
16 poses of licensing and regulating the activities of guides in the best  
17 interests of the state's wildlife resources, there [THERE] is created  
18 in the Department of Commerce and Economic Development, the Guide [LI-  
19 CENSING AND CONTROL] Board consisting of seven members. Not more than  
20 three members of the board may be licensed registered or master guides  
21 who are actively involved in the guiding profession. The other members  
22 of the board shall be knowledgeable and experienced with the fish and  
23 game resources of the state. All members shall be residents of the  
24 state for at least 10 years [NO MORE THAN THREE MEMBERS OF THE BOARD  
25 SHALL HAVE A GUIDE LICENSE. THE OTHER MEMBERS SHALL HAVE A GENERAL  
26 KNOWLEDGE OF THE GAME RESOURCES OF THE STATE. A MINIMUM OF 10 YEARS  
27 RESIDENCE IN THE STATE IS REQUIRED FOR ALL MEMBERS OF THE BOARD].

28 \* Sec. 4. AS 08.54 is amended by adding a new section to read:

29 Sec. 08.54.035. QUORUM. Four members of the board constitute a

1 AND WILLING LICENSED] guides who permanently reside within the desig-  
2 nated area if all other qualifications of the guides who apply for an  
3 area are equal [GAME UNIT OR SUBUNIT].

4 \* Sec. 10. AS 08.54 is amended by adding a new section to read:

5 Sec. 08.54.141. PRIVILEGES AND LIMITATIONS OF ASSISTANT GUIDES.

6 An assistant guide

7 (1) may not contract for guided hunts; and

8 (2) shall be supervised by a registered or master guide at  
9 all times while the assistant guide is in the field on guided hunts.

10 \* Sec. 11. AS 08.54 is amended by adding a new section to read:

11 Sec. 08.54.186. REGISTERED GUIDE EXAMINATION. The board shall  
12 administer the qualification examination required under AS 08.54.110 at  
13 least twice a year. At least once every other year the board shall  
14 give the examination at a location other than Anchorage.

15 \* Sec. 12. AS 08.54.190(a) is amended to read:

16 (a) A master guide, registered guide, class-A assistant guide, or  
17 assistant guide [OR TRANSPORTER] license expires on December 31, fol-  
18 lowing issuance.

19 \* Sec. 13. AS 08.54 is amended by adding a new section to read:

20 Sec. 08.54.195. GUIDE AREAS. (a) Under AS 08.54.040(a)(8), the  
21 board shall establish and assign exclusive or joint use guide areas for  
22 big game guides. The board shall adopt regulations under the Adminis-  
23 trative Procedure Act (AS 44.62) which establish criteria that will be  
24 used by the board when it creates an exclusive guide area.

25 (b) The board shall continue in effect all exclusive or joint use  
26 guide areas assigned before the effective date of this section. Howev-  
27 er, the board shall by regulation establish a deadline for guides to  
28 request a hearing before the board to review the assignment of an area.  
29 If requested by a guide, the board shall hold a hearing to determine if

1 an assignment of an exclusive or joint use area made before the effec-  
2 tive date of this section creates a substantial injustice as determined  
3 by criteria set out in (c) of this section. If the board determines  
4 that an injustice was created, the board shall modify, terminate or re-  
5 assign the area, or take other reasonable steps to correct the injus-  
6 tice.

7 (c) The board may find that an injustice was caused by the assign-  
8 ment of an exclusive or joint use guide area if:

9 (1) an individual was unfairly discriminated against; or

10 (2) a person who applied for the exclusive or joint use  
11 guide area was denied a hearing; or

12 (3) a qualified person was not given a preference at the  
13 time the area was assigned in accordance with AS 08.54.040(a)(8).

14 (d) The board shall consider the following before it assigns an  
15 exclusive or joint use guide area: (1) use of the game management unit  
16 in which the area is located by a guide who has applied for the area;  
17 (2) occupancy of and investment of money by the guide in the area; (3)  
18 the effect on other guides which would result from creation of the  
19 area; and (4) big game populations in the area.

20 (e) A guide who permanently resides in an exclusive or joint-use  
21 guide area is entitled to a preference in accordance with AS 08.54.-  
22 040(a)(8) for the assignment of the area. A guide may not be assigned  
23 an exclusive or joint use area in a guide district in which he is not  
24 licensed.

25 (f) If, after July 1, 1981, a guide has failed to use an exclusive  
26 or joint use guide area assigned to him for two consecutive years, the  
27 board shall, after a hearing, revoke the area and reassign the area  
28 permit. However, for good cause shown, including circumstances beyond  
29 the guide's control, a guide may be excused for not using an area if he

1 is capable of, and intends to, use the area in the next calendar year.  
2 Use of a guide area does not include use of the area by a subcontractor  
3 of a guide or the loan of the use of the area to another master or  
4 registered guide.

5 (g) A guide may not be assigned more than three exclusive or  
6 joint use guide areas which are in effect during the same year.

7 \* Sec. 14. AS 08.54.200(a) is amended to read:

8 (a) The board shall hold a hearing to determine if disciplinary  
9 action is necessary if within the five years immediately preceding the  
10 hearing

11 (1) complaints concerning the guide's guiding activities  
12 [LICENSEE] have been filed with the board or other state agency from  
13 three or more clients of separate parties and the division of fish and  
14 wildlife protection, Department of Public Safety, finds after investi-  
15 gation that the complaints appear to be valid; or

16 (2) a licensee has been charged with a violation of federal  
17 or state hunting, sport fishing, trapping, or guiding laws [FISH, GAME  
18 OR GUIDE STATUTES] or regulations; or

19 (3) a licensee has been convicted of a violation of a federal  
20 or state hunting, sport fishing, trapping, or guiding law [FISH, GAME  
21 OR GUIDE STATUTE] or regulation.

22 \* Sec. 15. AS 08.54.200(c)(3) is repealed and reenacted to read:

23 (3) has been convicted of the following violations within  
24 the five years immediately preceding the hearing:

25 (A) waste of a wild food animal;

26 (B) hunting on the same day that the guide and his  
27 clients are airborne;

28 (C) hunting in an area closed by a state game law or  
29 regulation;

1 (D) hunting during a closed hunting season; or

2 (E) hunting in an exclusive or joint use guide area

3 which is not assigned to the guide.

4 \* Sec. 16. AS 08.54.200(d) is amended to read:

5 (d) No person who is disciplined under this section may engage in  
6 any guiding [OR TRANSPORTING] activity during the period of license re-  
7 vocation or disciplinary action. No person licensed under this chapter  
8 may hire or work for a guide whose license is suspended or revoked un-  
9 der this section.

10 \* Sec. 17. AS 08.54.200 is amended by adding new subsections to read:

11 (f) If a certified copy of a judgment of a conviction of a guide  
12 for a crime described in (c)(3) of this section is filed with the  
13 board, the board may immediately suspend the guide's license. The  
14 suspension may be ordered even if the conviction resulted from a plea  
15 of nolo contendere or the conviction is under appeal to a higher court.  
16 The order remains in effect until after the final disposition of the  
17 disciplinary proceeding under this section.

18 (g) A certified copy of a judgment of conviction of a guide for  
19 any crime is conclusive evidence of the commission of that crime in any  
20 disciplinary proceeding instituted against him under this section based  
21 upon the conviction.

22 \* Sec. 18. AS 08.54.210 is amended to read:

23 Sec. 08.54.210. UNLAWFUL ACTS. (a) It is unlawful for

24 (1) a master guide, registered guide, class-A assistant  
25 guide, or assistant guide [OR TRANSPORTER] to fail to timely report to  
26 the Department of Public Safety, division of fish and wildlife protec-  
27 tion, and in no event later than 30 days, violations [BY A CLIENT] of a  
28 state fish, game or guiding statute or regulation;

29 (2) a master guide, registered guide, class-A assistant

1 guide, or assistant guide [OR TRANSPORTER] to aid the commission of a  
2 violation of this chapter or of AS 16.05 or a regulation promulgated  
3 under either chapter, or permit the commission of a violation in his  
4 sight without attempting to prevent it, short of using force, and with-  
5 out reporting it;

6 (3) a person to guide [OR TRANSPORT] as defined in this  
7 chapter without being licensed under this chapter and without having  
8 the license in his actual possession; [HOWEVER, FOR PURPOSES OF TRANS-  
9 PORTING BY AIR, IN THE CASE OF A CORPORATION, COMPANY, PARTNERSHIP OR  
10 OTHER BUSINESS ENTITY, THE LICENSE MAY REMAIN AT THE PRINCIPAL PLACE OF  
11 BUSINESS OF THE BUSINESS ENTITY;]

12 (4) a person to advertise as or represent himself to be a  
13 licensed master guide, registered guide, class-A assistant guide, or  
14 assistant guide [OR TRANSPORTER] without being currently licensed, or  
15 to falsely advertise services;

16 (5) a person to guide as defined in this chapter without  
17 having a current valid hunting and fishing license in his possession;  
18 [.]

19 (6) a master or registered guide to employ or have under his  
20 supervision more than three assistant guides at the same time; [.]

21 (7) a person to guide as defined in this chapter without  
22 paying a fee as prescribed in AS 16.05.340(e).

23 (b) A person who violates (a)(1) - (6) of this section is guilty  
24 of a misdemeanor and upon conviction is punishable by a fine of not  
25 more than \$1,000 or by imprisonment for not more than one year, or by  
26 both, and may have his license revoked for a period up to five years.  
27 However, a person who engages in guiding [OR TRANSPORTING] activity  
28 during the period his license is suspended or revoked under this chap-  
29 ter is guilty of a felony punishable, upon conviction, by a fine of not

1 more than \$5,000 and by imprisonment for not less than one year nor  
2 more than three years. In addition to punishment for a felony, all  
3 guns, fishing tackle, boats, aircraft, automobiles or other vehicles,  
4 camping gear and other equipment and paraphernalia used in, or in aid  
5 of, guiding [OR TRANSPORTING] activity engaged in during the period of  
6 suspension or revocation shall be confiscated by persons authorized to  
7 enforce this chapter. A person who violates (a)(7) of this section,  
8 upon conviction, is subject to the same license revocation provision as  
9 for a violation of (a)(1) - (6) of this section and, in addition, is  
10 punishable by a fine of not more than \$5,000, or by imprisonment for  
11 not more than one year, or by both.

12 \* Sec. 19. AS 08.54.240(1) is amended to read:

13 (1) "board" means the Guide [LICENSING AND CONTROL] Board;

14 \* Sec. 20. AS 08.54.240(2) is amended to read:

15 (2) "guide" [, "GUIDES"] or "guiding"

16 (A) means assisting another person to take or attempt  
17 to take big game with the intent of receiving monetary or material  
18 remuneration for the service [SERVICES], by accompanying or [AND]  
19 directing that person personally or through an employee or [A LI-  
20 CENSED] assistant guide; and

21 (B) includes a person who transports another person to  
22 a hunting area and supplies meat packers, camps, hunting equipment  
23 or other services for monetary or material remuneration [FOR THE  
24 DURATION OF A HUNT, AND NOT SOLELY FOR THE PURPOSE OF PROVIDING  
25 TRANSPORTATION SERVICES];

26 \* Sec. 21. AS 08.54.240(4) is amended to read:

27 (4) "unethical activity" means

28 (A) deception or misrepresentation [IN ANY DEGREE] in-  
29 volving prospective or actual clients either before, during, or

1 following a contract hunt including, but not limited to, misrepre-  
2 sentation through private or public advertising of the type, dura-  
3 tion, cost, or conditions of the contract hunt [HUNTS];

4 (B) [MISREPRESENTATION EITHER THROUGH PRIVATE COMMUNI-  
5 CATION OR PUBLIC ADVERTISING OF THE NATURE, TYPE, DURATION, COST,  
6 OR OTHER CONDITIONS OF CONTRACT HUNTS.]

7 (C) making a guaranty or money-back promise that a  
8 species or certain number of species of game will be taken on a  
9 contract hunt;

10 (D) unsafe or unsportsmanlike activities that are detri-  
11 mental to the game resources of the state or to the guiding pro-  
12 fession, as defined by regulations of the board, including viola-  
13 tions of state or federal hunting, sport fishing, trapping, or  
14 guiding laws or regulations; [.]

15 \* Sec. 22. AS 39.50.200(b) is amended by adding a new paragraph to read:

16 (44) the Guide Board (AS 08.54).

17 \* Sec. 23. AS 08.03.010(b)(7); AS 08.54.040(b), 08.54.045, 08.54.142 --  
18 08.54.146, 08.54.170(c), and 08.54.240(5) are repealed.

19 \* Sec. 24. This Act takes effect July 1, 1981.  
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# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S  
JUNEAU, ALASKA 99811

May 29, 1981

The Honorable Terry Gardiner, Chairman  
House Special Gas Pipeline Committee  
Pouch V  
Juneau, AK 99811

Re: Proposed Amendments to SSHB 200

Dear Mr. Chairman:

Despite our efforts to prepare the best possible bill to introduce as the Sponsor Substitute, subsequent testimony during your committee's hearings on SSHB 200 and further internal review within the Administration make it apparent that a number of amendments are in order. These are:

Amendment 1: On page 1, lines 17-18, delete "the 70 percent of".  
On line 19, insert "and (j)" between "7(i)" and "of the".  
On line 20, between "this chapter" and the "." insert "except that a recipient that is subject to AS 43.21 shall treat the income as taxable income under AS 43.21.040".

The text as amended would read (starting in the middle of line 17):

"Income from sharing in a regional Native corporation's revenue that is required to be divided under sec. 7(i) and (j) of the Alaska Native Claims Settlement Act (P.L. 92-203) is taxable income of the recipient under this chapter, except that a recipient that is subject to AS 43.21 shall treat the income as taxable income under AS 43.21.040."

Explanation of Amendment 1. In order to explain this amendment, it is first necessary explain the purpose of the new language being added to AS 43.20.011(e).

The Alaska Native Claims Settlement Act ("ANCSA") extinguishes all "aboriginal titles, if any, and claims of aboriginal title in Alaska" (ANCSA §4). In partial compensation for this extinguishment, Congress provided for the creation of regional Native corporations (ANCSA §7) and village Native corporations (ANCSA §8) and further provided for the selection and conveyance of land to these corporations (ANCSA §§ 11, 12, 14 and 16).

Under the terms of sec. 7(i), 70 percent "of all revenues received by each Regional Corporation from the timber resources and subsurface estate patented to it pursuant to this Act shall be divided annually by the Regional

Corporation among all [the] Regional Corporations. . . ." Accordingly, revenues from lumbering and mining operations on ANCSA-conveyed lands, in addition to oil and gas revenues from those lands, are subject to this distribution of 70 percent.

In a private letter ruling dated February 2, 1977 (the "Ruling"), the Internal Revenue Service noted:

"As a general rule, no income is realized when receipt of funds is accompanied by a restriction on their use and disposition and the recipient has no control over the disposition of the funds and will not benefit from their distribution. [citation omitted]

"Accordingly, [IRS ruled, a] Regional Corporation shall include in its gross income that amount of monies earned from timber and subsurface estates that is retained by the corporation after meeting the distribution requirement of Section 7(i) of the Act."

(Ruling, p. 8; emphasis added). Moreover, the Ruling continues,

"[a]mounts paid to a Regional Corporation from other Regional Corporations pursuant to section 7(i) of the Act are includable in the recipient Regional Corporation's gross income. The inclusion of such amounts is limited to those section 7(i) amounts which are not required to be distributed [to each Region's respective shareholders and village corporations] pursuant to section 7(j). . . . A Regional Corporation may deduct all expenses . . . incurred in generating income from its timber resources and subsurface estate."

(Ruling, pp. 8-9; emphasis added). What this means is that, for federal income tax purposes, the timber and subsurface monies subject to distribution under sec. 7(i) and (j) of ANCSA are taxable to each recipient. Those monies are not all income of the regional corporation owning the timber or subsurface estate giving rise to the monies. Only the amount retained by the regional corporation (i.e., the undistributed 30 percent) and the amount that it receives back from the distribution under sec. 7(i) and doesn't redistribute under sec. 7(j) are included in its gross income. The regional corporation's costs for the timber or subsurface operations on its ANCSA-conveyed land are all deductible by the corporation, and a "loss on one of its properties . . . would be offset against the gains on its other properties" (Ruling, p. 9).

Chapter 20 incorporates the Internal Revenue Code by reference. Hence, these interpretations of the Code by IRS would be followed for Alaska's income tax when the income is from timber or subsurface operations other than oil and gas production.

Do these basic rules change under Alaska law because the distributable income comes from oil and gas production? No, they do not unless the distribution provisions of sec. 7(i) and (j) in ANCSA create an economic interest in the timber or subsurface estate on the part of the recipients. Once again the Ruling is of assistance. After a fairly extended and careful analysis of this question (Ruling, pp. 10-13), the Ruling concludes:

"A Regional Corporation has an economic interest in its own timber and mineral resources. . . . However, a Regional Corporation does not have an economic interest in the resources of other Regional Corporations. . . . Each native shareholder and each Village Corporation within a particular region does not have an economic interest in the timber and mineral resources of that Regional Corporation."

(Ruling, p. 13). In other words, a recipient of sec. 7(i) or (j) income has an insufficient relationship to the source of that income to have an economic interest in that source. Under AS 43.20.011(e) as it now reads on the books, the recipient would not be "engaged" in oil and gas production merely as the result of sharing under sec. 7(i) or (j) in income derived from oil and gas production. Without an economic interest in oil and gas production, the recipient would be taxed under chapter 20, not chapter 21.

The Sponsor Substitute merely preserves this status quo. The words "engaged in [oil and gas production]" in present law would be replaced with "which derives income from [oil and gas production]" in order to make the language in AS 43.20.011(e) parallel to that in AS 43.21.010. One could argue that, as changed by the present language on page 1, lines 14-15 of SSHB 200, AS 43.20.011(e) would not longer require an "economic interest" in oil and gas income in order to trigger chapter 21: the sec. 7(i) and (j) distributions from oil and gas monies would indeed be "derived" from oil and gas production. To prevent this change from the present tax treatment, additional language is included at lines 17-20 on page 1 of the Sponsor Substitute.

Unfortunately, however, the problem with the proposed additional language is, what it seems to do in the case where the recipient is already subject to AS 43.21. With the language as proposed in SSHB 200, the income received under sec. 7(i) or (j) of ANCSA would be taxable only under AS 43.20, while the rest of the recipient's income would be taxed under chapter 21. This is not the intended result. Not only doesn't it make much sense on the face of it, but also it prevents losses from one source for a recipient from being offset against gains from other sources, which is the federal rule (Ruling, p. 9). To correct this inadvertant error and avoid ambiguity in the inter-relationship between chapter 20 and chapter 21, Amendment 1 is proposed, which makes it clear that sec. 7(i) or (j) income of a chapter 21 taxpayer is taxable under chapter 21 with the rest of that taxpayer's income.

Under present law the source of sec. 7(i) and (j) income will not, in and of itself, determine which chapter a taxpayer falls under. The Sponsor Substitute with this amendment will preserve this basic principle.

Amendment 2: On page 4, line 4 and on page 5, line 3, insert "deriving income from" between "attributable to" and "the production".

The text as amended would read:

". . . general overhead and administrative expense attributable to deriving income from the production of oil or gas. . . ."

Explanation of Amendment 2. This is a technical change, recognizing the fact that royalty owners and owners of certain similar interests might not be seen as being engaged in the "production" of oil or gas. If they were so viewed, then any administrative expense or overhead that they might incur with respect to their interests could not be deducted in determining their taxable net production income. This makes it clear that overhead and administrative expense incurred with respect to getting production income are deductible from that income in determining the tax liability.

Amendment 3: On page 4, line 17, delete "12" and insert "Native" between "regional" and "corpora-".

The text as amended would read:

" . . . divided among the regional Native corporations. . . ."

Explanation of Amendment 3. This is another technical amendment. Under sec. 7(b) and (c) of the Alaska Native Claims Settlement Act, the number of regional Native corporations may vary between seven and 13. The reference in the present Sponsor Substitute to 12 regional corporations will introduce ambiguity into the statute in the event the number of regional corporations changes, and thus the amendment proposes its deletion. The insertion of the word "Native" between "regional" and "corporation" is to make the reference consistent with the practice followed elsewhere in the bill of referring to these corporations as "regional Native corporations".

Amendment 4: On page 5, lines 8-18, delete present material and replace it with the following:

(b) The total taxable income of the consolidated business is its entire income less the portion of that entire income attributable to worldwide production and pipeline transportation of oil and gas. In this section,

(1) for those members of the consolidated business that are required to file under the Internal Revenue Code, "entire income" is taxable income under Subtitle F and chapter 1 of Subtitle A of the Internal Revenue Code of 1954, as amended, except that those provisions adopted after December 31, 1975 which change or modify exemptions from tax are not adopted by reference as a part of this section until the second January 1 following the effective date of the federal law; and

(2) for those members of the consolidated business that are not required to file under the Internal Revenue Code, "entire income" is book income, except that the taxpayer may elect to report their income as it would be determined under (1) of this subsection.

Explanation of Amendment 4. The intent of the present language is to treat "other" income (i.e., income not derived from production or pipeline transportation in the state) the same under chapter 21 as it would be treated

under chapter 20. Under chapter 20, foreign subsidiaries and affiliates in a unitary business are combined with the U.S. subsidiaries and affiliates to determine the worldwide "pie" of income to be apportioned to Alaska. For those foreign entities that are not required to file returns under the Internal Revenue Code, the option is given to report their income on either the basis of their book income or on the basis of the federal taxable income that would have been reported to the IRS if these foreign entities were filing under the Internal Revenue Code. Our experience has been that taxpayers generally assert the right to report on the latter basis, but then find that it is simply much easier to pay up on the basis of book income instead. The proposed amendment would afford taxpayers under chapter 21 this same option with respect to the "other" income of their foreign affiliates. In addition, it eliminates a potential ambiguity in defining "entire income" as federal taxable income: for a foreign affiliate that doesn't report to the IRS, the taxpayer could argue that there is no federal taxable income of that affiliate, and hence, that it should not be included in the worldwide "pie" of "other" income apportioned to Alaska under AS 43.21.040.

Amendment 5: On page 9, line 12, replace "The" with "(a) Subject to (b) of this section, the".

On line 15, replace "an interest" with "property".

On line 17, insert "or not" between "whether" and "devel-".

On line 20, replace the comma (",") after "seq.)" with a semicolon (";") and delete all following material.

Between lines 25 and 25, insert the following:

"(b) Leaseholds and similar interests held by third parties in property described in (a)(1) or (2) of this section shall be taxable to the extent of those interests."

The text as amended would read:

"Sec. 43.58.031. EXEMPTIONS. (a) Subject to (b) of this section, the following property that would otherwise be taxable property is exempt from taxation under this chapter:

(1) property of the United States or the state;

(2) property exempt from state taxation under the laws of the United States including the exemption of property, whether or not developed or leased to third parties, under sec. 21(d) of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.);

(3) that portion of the full and true value of taxable property attributable to gas reserves.

(b) Leaseholds and similar interests held by third parties in property described in (a)(1) or (2) of this section shall be taxable to the extent of those interests."

Explanation of Amendment 5. This is a technical amendment to make it clearer that leaseholds and similar interests held by third parties in exempt property are taxable under AS 43.58 to the extent of those interests, regardless of whether the exemption arises because the property is federally owned,

is state owned, is exempted under sec. 21(d) of the Alaska Native Claims Settlement Act, or is otherwise exempted from state taxation under federal law.

Amendment 6: On page 9, line 26, replace "(as defined in AS 43.58.151(9))" with "under this chapter".

The amended text would read:

". . . paid during a tax year under this chapter by a taxpayer. . . ."

Explanation of Amendment 6. This technical change makes it clearer that income tax payments under AS 43.21 do not give rise to credits under AS 43.58.041(a) unless they are made during a tax year under AS 43.58. Since AS 43.58 will not take effect until July 1, 1981, income tax payments under AS 43.21 made before that time will not accrue "section 41(a) credits." (Note, however, that AS 43.58.041(b) provides for the accrual of credits for income tax payments made before July 1, 1981 -- in other words, no payment under AS 43.21 fails to accrue a credit against the reserves tax.)

Amendment 7: On page 10, line 24, replace "(e)" with "Sec. 43.58.051. REDETERMINATION OF LIABILITY." and renumber the remaining new sections in AS 43.58 by adding 10 to their present section numbers (e.g., present Sec. 43.58.051 becomes Sec. 43.58.061).  
On page 10, line 27 and page 11, line 1: Replace "this section" with "AS 43.58.041".

The amended text would read:

"Sec. 43.58.051. REDETERMINATION OF LIABILITY. If the income tax liability of a taxpayer or the taxpayer's consolidated business under AS 43.20 or AS 43.21 for a tax period is redetermined and adjusted after the credit for that tax period has been applied under AS 43.58.041, or if the income tax liability of the taxpayer or the taxpayer's consolidated business is redetermined under AS 43.20 and adjusted after the credit for that tax period has been applied under AS 43.58.041, then the taxpayer's tax liability under this chapter for the tax year in which the credit was applied shall be redetermined, taking into account the adjustment to the taxpayer's income tax liability."

Explanation of Amendment 7. This technical amendment takes AS 43.58.041(e) -- which contains the heart of the revenue "safety net" in the bill -- and elevates it to the status of a separate section. Since it is no longer part of AS 43.58.041, references to "this section" must be changed to refer to that section. This change also removes these "safety net" provisions from any possible application of section 9 of the Act (at page 17, lines 4-14), which obviously is not intended to apply to them.

Amendment 8. On page 11, line 23: Insert "implicit" between "inflation" and "in the".  
On line 23: Delete "implicit" between "in the" and "GNP deflator".  
On line 28: Before "GNP deflator", delete "implicit".

The amended text would read:

". . . above the rate of inflation implicit in the GNP deflator over the five calendar years immediately preceding the assessment date. A taxpayer may rebut this presumption only by proving to the department by clear and convincing evidence that the use of the presumed discount rate in the valuation of the property would result in constructive fraud. In this subsection, "GNP deflator" means the deflator for the gross national product published by the United States Department of Commerce."

Explanation of Amendment 8. This amendment makes technical changes to allow a more accurate reference to the GNP deflator, which is the most broadly based indicator of U.S. inflation currently available. The statistics published by the U.S. Department of Commerce are actually entitled "Implicit Price Deflators for Gross National Product". These are a series of index numbers, with 1972 currently used as the base year (1972=100). The Commerce Department periodically revises these figures, at 45 days and again at 75 days after the initial estimate. We would expect to use the 75-day revision (or its closest counterpart if the revision intervals are changed) in determining the rate of inflation, since the later revision may reasonably be expected to be more accurate than both the initial estimate and the 45-day revision.

Your committee staff have asked exactly how we propose to calculate the rate of inflation implicit in the GNP deflator. The best way is to use the continuous compound rate of inflation between the index number for the fifth calendar year preceding the assessment date and the index number for the calendar year immediately preceding the assessment date. The mathematical formula for determining this continuous compound rate is

$$\text{rate} = [\ln(\text{GNP}_1/\text{GNP}_5)]/4$$

where  $\text{GNP}_5$  is the index figure for the fifth preceding calendar year,  $\text{GNP}_1$  is the index figure for the first preceding calendar year, and  $\ln$  means the natural logarithm.

Using this formula, the rate of inflation that we would use for the July 1, 1981 assessment date would be:

$$\begin{aligned} [\ln(\text{GNP}_1/\text{GNP}_5)]/4 &= [\ln(180.1/133.8)]/4 \\ &= [\ln(1.346)]/4 \\ &= [0.297]/4 \\ &= 0.074 \end{aligned}$$

Thus the presumed discount rate for determining present values of future net

income will be this 7.4 percent rate of inflation, plus the number of percentage points prescribed in AS 43.58.061 (as renumbered by Amendment 7).

Amendment 9: On page 13, lines 5-6, delete "include property omitted from the assessment roll on a supplemental roll".  
On line 7, between "original roll" and ".", insert the following:

" , prepare a supplemental roll to include property omitted from the original roll and to include property from which commercial production commences after the beginning of the tax year. The assessed value of property included on the supplemental roll because commercial production from it commences after the beginning of the tax year shall be reduced pro rata in proportion to the portion of the tax year preceding the commencement of commercial production from it"

The amended text (as renumbered by Amendment 7) would read:

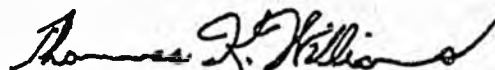
"Sec. 43.58.111. SUPPLEMENTAL ASSESSMENT ROLLS. The department shall, using the procedures set out in this chapter for the original roll, prepare a supplemental roll to include property omitted from the original roll and to include property from which commercial production commences after the beginning of the tax year. The assessed value of property included on the supplemental roll because commercial production commences after the beginning of the tax year shall be pro-rated on the basis of the time remaining in the tax year after the day commercial production commences.

Explanation of Amendment 9. This is a substantive amendment proposed in response to testimony to your committee by the representative of Atlantic Richfield Company. The witness testified that there would be an incentive to delay the timing for bringing new production on stream until after the start of a new tax year under AS 43.58, in order to avoid having reserves tax liability for two tax years. Without this proposed amendment, the witness would be correct: the property coming on stream would be placed on a supplemental assessment roll for the tax year in which production commenced; the following tax year the property would be placed on the regular assessment roll. To prevent this, the amendment would require that the assessment (and hence the reserves tax liability) be pro-rated on the basis of the time remaining in the tax year when production commenced. The following year, when the property is placed on the regular assessment roll, the assessment ratio will be 100 percent.

Hon. Terry Gardiner  
May 29, 1981  
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I hope these suggestions will be adopted by the Committee. I will be available to answer any questions you or the committee may have about them.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Thomas K. Williams".

Thomas K. Williams  
Commissioner of Revenue

TKW:tw

[Names and addresses of counsel appeal on signature page]

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ATLANTIC RICHFIELD COMPANY, et al.,  
Plaintiffs,  
v.  
STATE OF ALASKA, et al.,  
Defendants.

No. 3AN-79-1903 Civil

STATE OF ALASKA,  
DEPARTMENT OF REVENUE,  
Plaintiffs,  
v.  
EXXON CORPORATION, et al.,  
Defendants.

EXXON CORPORATION, a New Jersey corpo-  
ration; EXXON PIPELINE COMPANY, a  
Delaware corporation,  
Counterclaimants,  
v.  
STATE OF ALASKA; DEPARTMENT OF REVENUE,  
STATE OF ALASKA; DEPARTMENT OF  
ADMINISTRATION, STATE OF ALASKA; THOMAS  
K. WILLIAMS, COMMISSIONER OF REVENUE;  
AND WILLIAM R. HUDSON, COMMISSIONER OF  
ADMINISTRATION,  
Defendants on Counterclaim.

No. 3AN-80-1542 Civil

COUNTERCLAIM FOR REFUND OF TAXES  
AND FOR DECLARATORY AND OTHER RELIEF

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COUNTERCLAIM FOR REFUND OF TAXES  
AND FOR DECLARATORY AND OTHER RELIEF

Defendants and counterclaimants Exxon Corporation ("Exxon") and Exxon Pipeline Company ("Exxon Pipeline") for their counterclaim herein aver as follows:

NATURE OF THE CASE

1. This action arises because Chapter 110 of the 1978 State Laws of Alaska, establishing an oil and gas corporate income tax, as amended by Chapter 113 of the 1980 State Laws of Alaska (the "Oil Tax Act") is unconstitutional and void. Counterclaimants bring this Counterclaim to obtain a refund of all payments made thereunder. Counterclaimants also ask the Court to enjoin enforcement of the Oil Tax Act and to declare it unconstitutional and void.

2. The Oil Tax Act singles out oil and gas corporations for unique tax treatment by imposing upon them a new, burdensome and discriminatory income tax. Signed by the Governor on July 5, 1978, the Oil Tax Act purports to apply retroactively to all income earned or received after December 31, 1977. Exxon's tax liability under the Oil Tax Act to date is in excess of \$147,500,000; Exxon Pipeline's liability to date under the Oil Tax Act is in excess of \$61,000,000.

3. The Oil Tax Act is unconstitutional on the following grounds:

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(a) It results in multiple taxation of counterclaimants' income from the production and pipeline transportation of Alaskan crude oil and is thus invalid under the Commerce Clause of the United States Constitution (Article I, Section 8, Clause 3) and the Due Process Clause of the United States Constitution (Amendment XIV, Section 1);

(b) It fails to apportion any of counterclaimants' net income from Alaskan crude oil production or pipeline transportation to other states entitled to tax that income, in violation of the Commerce Clause and the Due Process Clause of the United States Constitution;

(c) It imposes a tax that is not fairly related to services provided by Alaska and is thus invalid under the Due Process Clause and the Commerce Clause of the United States Constitution, the Equal Protection Clause of the United States Constitution (Amendment XIV, Section 1), the Due Process Clause of the Alaska Constitution (Article I, Section 7), and the Equal Protection Clause of the Alaska Constitution (Article I, Section 1);

(d) It impermissibly burdens interstate commerce in a natural resource of profound national importance and is thus invalid under the Commerce Clause of the United States Constitution;

(e) It discriminates against a single industry, thereby denying counterclaimants due process of law and the equal protection of the laws, in violation of

1 the Due Process and Equal Protection Clauses of the United  
2 States and Alaska Constitutions;

3  
4 (f) It violates the Multistate Tax Compact,  
5 AS 43.19.010 et seq., of which Alaska is a contractual  
6 member, and is thus invalid under the Contract Clause  
7 of the United States Constitution (Article I, Section  
8 10, Clause 1) and the Contract Clause of the Alaska  
9 Constitution (Article I, Section 15);

10  
11 (g) It conflicts with the Outer Continental Shelf  
12 Lands Act, 43 U.S.C. §§ 1331 et seq., in violation of  
13 the Supremacy Clause of the United States Constitution  
14 (Article VI, Clause 2); and

15  
16 (h) It purports to apply retroactively without  
17 having secured the approval of two-thirds of the Alaska  
18 Senate, in violation of Article II, Section 18 of the  
19 Alaska Constitution.

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21 JURISDICTION AND VENUE

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23 4. This Court is vested with jurisdiction under  
24 AS § 22.10.020.

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26 5. The venue of this action is in this Court pursuant  
27 to AS § 22.10.030(b).  
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PARTIES

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6. Counterclaimant Exxon Corporation is a corporation organized under and by virtue of the laws of the State of New Jersey with its principal place of business at New York, New York. Exxon is an integrated petroleum company, active in all phases of exploration, development, production, transportation, refining and marketing of petroleum and petroleum products in the United States. Exxon through its subsidiaries is also engaged worldwide in diverse non-petroleum activities, including non-petroleum mineral development and the production of industrial equipment and information services. Exxon has a working interest in approximately 20% of the proven crude oil reserves and 37% of the proven natural gas reserves at Prudhoe Bay, Alaska.

7. Counterclaimant Exxon Pipeline Company is incorporated under and by virtue of the laws of the State of Delaware with its principal place of business at Houston, Texas. Exxon Pipeline is principally involved in the pipeline transportation of petroleum in the United States and currently owns a 20.2713% undivided joint interest in the Trans Alaska Pipeline. Exxon Pipeline is a wholly-owned subsidiary of Exxon.

8. Counterclaimants are duly qualified to do business in the State of Alaska, have filed all necessary reports and have paid all taxes, payment of which is a necessary precondition to the bringing and maintenance of this counterclaim.





1 The Oil Tax Act produces exactly this prohibited result by  
2 levying a tax based on 100 per cent of Exxon's net income  
3 from the production of Alaskan crude oil, even though 95 per  
4 cent of Exxon's Alaskan crude oil is currently marketed outside  
5 Alaska, and though many states besides Alaska are entitled  
6 to, and do, tax a share of that income.

7  
8 15. For purposes of the Oil Tax Act, Alaska calculates  
9 Exxon's net income from the production of Alaskan crude oil  
10 as follows. Regulation 15 AAC 12.120 begins by taking the  
11 "sales price" of the crude oil when it is delivered to a refinery;  
12 with minor exceptions, the refineries in question are located  
13 outside Alaska. When the oil is sold by Exxon to a third  
14 party, the "sales price" is normally the price specified in  
15 the contract for crude oil landed at the refinery gate. (In  
16 the case of intra-corporate transfers, Exxon and the Department  
17 of Revenue do not agree on the details of the method by which  
18 the "sales price" is to be calculated under the Oil Tax Act;  
19 Exxon believes that the Department agrees, however, that the  
20 "sales price" in the case of intra-corporate transfers is  
21 to be a measure of the fair market value of the oil landed  
22 at the refinery gate.) Net income from the production of  
23 Alaskan crude oil is then defined for purposes of the Act  
24 as the "sales price" less (a) specified expenses of transporting  
25 the crude oil to the refinery and (b) certain specified --  
26 and highly restrictive -- deductions intended to reflect the  
27 cost of production. Alaska's tax, at the rate of 9.4 cents  
28 on the dollar, is then imposed on 100 per cent of Exxon's  
29 net income from production of Alaskan crude oil as determined  
30 above.

1 16. Alaska may not levy a tax based on 100 per  
2 cent of Exxon's net income from production of Alaskan crude  
3 oil because in doing so Alaska ignores entirely the interests  
4 of the other states that have a right to levy a tax based  
5 on a share of this same income. The vice of Alaska's tax  
6 is that, unlike other states, Alaska does not base its tax  
7 on only a share of this income: instead, Alaska seeks to  
8 levy a tax based on all of it, and thus leaves nothing that  
9 other states may tax without subjecting Exxon and other multi-  
10 state taxpayers to the burden of double taxation. The states  
11 that have a right to levy a tax on a share of the net income  
12 from oil production that Alaska arrogates to itself fall into  
13 several categories, and are identified in Paragraphs 17-21  
14 below.

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16 17. Exxon activities in states other than Alaska  
17 contribute to the multistate endeavor of producing Alaskan  
18 crude oil, and the other states may tax a share of Exxon's net  
19 income from that production. Before any oil can be produced,  
20 for example, thousands of hours of geological and geophysical  
21 research and analysis must go into the discovery and location  
22 of the oil. In the case of Exxon's production of Alaskan  
23 crude oil, geological and geophysical work has been done pri-  
24 marily not by personnel based in Alaska, but by Exxon employees  
25 based at Houston, Texas. Because of the harsh climate and  
26 difficult environment of much of Alaska, new drilling and  
27 production techniques had to be developed. Years are and have  
28 been spent designing the drill pads, producing wells, flowlines,  
29 flow stations, compressor plants and injection wells that are  
30 necessary to run production units. Conception, development

1 and testing of new means of drilling for oil take place not  
2 only in Alaska, but also at Exxon Production Research Company,  
3 a wholly-owned subsidiary of Exxon based at Houston, Texas.  
4 Some of these developments have also taken place at Exxon  
5 Research and Engineering Company, based at Florham Park, New  
6 Jersey. Once oil has been discovered, and satisfactory methods  
7 of drilling for it have been developed, oil production can  
8 begin. Exxon's only current production in Alaska, the Prudhoe  
9 Bay field, is operated by third parties under a unit operating  
10 agreement; supervision of the work of these third parties is  
11 directed principally by the Western Division of Exxon's Produc-  
12 tion Department, which is located at Los Angeles, California,  
13 and by Exxon's domestic headquarters employees, located at  
14 Houston, Texas. Because the production of Alaskan crude oil  
15 is dependent on services performed in California, New Jersey,  
16 Texas, and other states, each of these states is entitled to  
17 levy a tax on a share of Exxon's net income from that produc-  
18 tion. With the exception of Texas, which has no income tax,  
19 each of these states does in fact levy such a tax.

20  
21 18. States in which Exxon disposes of its Alaskan  
22 crude oil, whether by sale or by transfer to Exxon's own  
23 refineries, are also entitled to tax a percentage of the net  
24 income from the production of that oil. The starting point  
25 for Alaska's Oil Tax Act calculation of Exxon's net income  
26 from production of Alaskan crude oil, as described above,  
27 is the "sales price" of the oil at the refinery gate. Since  
28 the opening of the Trans Alaska Pipeline in mid-1977, Exxon  
29 has delivered approximately 95 per cent of its Alaskan crude  
30 oil to refineries in California, Texas, Louisiana, New Jersey,

1 and Washington. These deliveries occurred as a result of  
2 negotiations conducted by Exxon personnel located outside  
3 Alaska. Each of these destination states has an unquestionable  
4 right to levy a tax on a share of the net income that Exxon  
5 derives from the Alaskan crude oil delivered to refineries  
6 in those states. When, for example, Exxon sells Alaskan crude  
7 oil to a California refinery, Exxon's profit from that sale  
8 is attributable to the California sale as well as to the Alaska  
9 production. Yet Alaska bases its tax on 100 per cent of Exxon's  
10 profit from that sale, leaving nothing for California to tax  
11 without subjecting Exxon's income to duplicative taxation.

12  
13 19. These are not the only states that are entitled  
14 to tax a share of Exxon's net income from production of Alaskan  
15 crude oil. Exxon is an integrated petroleum company which is  
16 engaged in the production, refining, and marketing of petroleum  
17 products throughout the United States. For internal purposes,  
18 the domestic operations of Exxon are organized into separate  
19 functional units -- e.g., Exploration and Production, Refining,  
20 Marketing, Marine -- each of which has responsibility for a  
21 defined aspect of Exxon's business. Each of these units is  
22 a separate "profit center" for Exxon's internal accounting  
23 purposes and is expected to earn a profit just as if the func-  
24 tional unit were an entirely independent business. Exxon  
25 books transactions between functional units -- e.g., the sale  
26 of crude oil from Exploration and Production to Refining -- at  
27 transfer prices that reflect prevailing market prices, with the  
28 intent and result that Exxon's functional units are neither  
29 advantaged nor disadvantaged when they deal with another unit  
30 of Exxon rather than a wholly independent concern. Despite

1 these facts, the United States Supreme Court has definitively  
2 held that Exxon's domestic production, refining, and marketing  
3 income is interrelated and is "unitary" in the sense that  
4 all states in which Exxon operates are entitled to tax a share  
5 of Exxon's entire stream of that income, including Exxon's  
6 income from oil and gas production in states other than the  
7 taxing state. Exxon Corp. v. Wisconsin Dep't of Revenue,  
8 \_\_ U.S. \_\_, 100 S. Ct. 2109 (1980) ("Exxon v. Wisconsin").  
9

10 20. Exxon currently markets petroleum products in  
11 45 states -- all except Alaska, Hawaii, Iowa, Kansas, and  
12 Missouri -- and in the District of Columbia as well. With  
13 minor exceptions, the petroleum products marketed by Exxon  
14 are obtained by Exxon's Marketing Department either from one  
15 of Exxon's five refineries in the United States or from other  
16 petroleum refiners in exchange for equivalent products refined  
17 by Exxon. Exxon's refinery at Benicia, California, runs entirely  
18 on Exxon's Alaskan crude oil. It supplies refined products  
19 for marketing by Exxon in California; in exchange for products  
20 refined at Benicia, Exxon receives products which Exxon markets  
21 in Arizona, Louisiana, Nevada, New Jersey, New Mexico, Oregon,  
22 Pennsylvania, Texas, and Washington. Exxon's refineries at  
23 Baytown, Texas, Baton Rouge, La., and Bayway, N.J. operate  
24 in part on Exxon's Alaskan crude oil. They refine products  
25 for distribution by Exxon generally in the southern and eastern  
26 parts of the United States; in addition, Exxon receives from  
27 other refiners, in exchange for products refined at Baytown,  
28 Baton Rouge and Bayway, products which Exxon markets in most,  
29 if not all, Exxon marketing territories throughout the United  
30 States. Exxon's refinery at Billings, Montana, operates in

1 part on crude oil received by Exxon from other oil producers  
2 in exchange for Exxon's Alaska crude oil. The Billings refinery  
3 primarily serves Exxon's marketing operations in the northern  
4 mountain and plains states. Under the United States Supreme  
5 Court's decision in Exxon v. Wisconsin, each of the 45 states  
6 where Exxon markets petroleum products is constitutionally  
7 entitled to levy a tax based on a share of Exxon's net income  
8 from production of Alaskan crude oil.

9  
10 21. In 1978, a total of 30 states other than Alaska  
11 levied taxes on a share of Exxon's net income from production  
12 of Alaskan crude oil, as did the District of Columbia. The  
13 percentages of Exxon's net income from production of Alaskan  
14 crude oil taxed in each of these jurisdictions were as follows:

15		
16	Alabama	.5913
17	Arkansas	.3074
18	California	2.9364
19	Colorado	.1717
20	Connecticut	.4993
21	Delaware	.0999
22	District of Columbia	.0935
23	Florida	2.4600
24	Idaho	.0122
25	Indiana	.1060
26	Iowa	.0315
27	Kentucky	.2172
28	Maine	.2130
29	Maryland	1.2716
30	Massachusetts	1.2201

1	Michigan	.1431
2	Missouri	.0479
3	Montana	.5999
4	New Hampshire	.0595
5	New Jersey	6.7315
6	New York	4.4430
7	North Carolina	1.2337
8	Ohio	.3122
9	Oregon	.0872
10	Pennsylvania	1.7498
11	Rhode Island	.0552
12	Tennessee	1.1558
13	Utah	.1195
14	Vermont	.0209
15	Virginia	1.5305
16	West Virginia	.2505

17

18 Each of these jurisdictions will tax a comparable share of  
 19 Exxon's 1979 net income from production of Alaskan crude oil,  
 20 although all returns have not yet been filed and exact figures  
 21 are not yet available. As a result of the Supreme Court's  
 22 decision in Exxon v. Wisconsin, moreover, seven more states  
 23 are expected to levy a tax based on a share of Exxon's 1979  
 24 net income from production of Alaskan crude oil than did so  
 25 in 1978; these states are Arizona, Georgia, Minnesota, Nebraska,  
 26 North Dakota, South Carolina, and Wisconsin.

27

28 22. Ignoring the fact that other states are consti-  
 29 tutionally entitled to tax a portion of Exxon's net income  
 30 from production of Alaskan crude oil, the Oil Tax Act taxes

1 100 per cent of such income. As a result, close to 130 per  
2 cent of Exxon's net income from production of Alaskan crude  
3 oil was taxed in 1978. An equal or greater percentage of net  
4 income from production of Alaskan crude oil will be taxed for  
5 1979, and similar percentages for 1980 and subsequent years.  
6

7 23. The Oil Tax Act also imposes a tax based on 100  
8 per cent of Exxon Pipeline's net income from the pipeline  
9 transportation of Alaskan oil and gas. This income is defined  
10 as the net operating income reported to the Federal Energy  
11 Regulatory Commission for any pipeline within Alaska, reduced  
12 by those portions of interest and general administrative expense  
13 attributable to the pipeline transportation.  
14

15 24. Exxon Pipeline currently operates in eight states  
16 in addition to Alaska. Because the income from Exxon Pipeline's  
17 operations is unitary, all states in which Exxon Pipeline  
18 operates are entitled to tax a portion of Exxon Pipeline's  
19 entire income, including the income from pipeline transportation  
20 of Alaskan oil and gas. At the present time, seven states  
21 other than Alaska tax the income from Exxon's Alaska pipeline  
22 operations. In 1978, the following states levied taxes based  
23 on the following percentages of such income:  
24

25	Alabama	.62028
26	Florida	2.4600
27	Louisiana	8.806478
28	Massachusetts	.00043
29	Mississippi	.75199

30

1	Montana	.312603
2	North Carolina	.083687

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25. Ignoring the fact that other states are constitutionally entitled to tax a portion of Exxon Pipeline's income from Alaska operations, the Oil Tax Act taxes 100 per cent of said income. As a result, more than 113 per cent of Exxon's net income from pipeline operations in Alaska was taxed in 1978. Similar percentages were taxed in 1979 and will be taxed in 1980 and subsequent years.

B.

THE OIL TAX ACT IMPERMISSIBLY FAILS TO APPORTION ANY OF COUNTERCLAIMANTS' NET INCOME FROM PRODUCTION OR PIPELINE TRANSPORTATION OF ALASKAN CRUDE OIL TO ANY OF THE OTHER STATES ENTITLED TO TAX THAT INCOME

26. The Commerce and Due Process Clauses of the United States Constitution require the fair apportionment of production income among all states in which Exxon operates and the fair apportionment of pipeline income among all states in which Exxon Pipeline operates. Alaska, however, does not apportion counterclaimants' net income from production and pipeline transportation of Alaskan crude oil as among the many states entitled to tax a share of that income, but instead imposes a tax based on 100 per cent of such income. Alaska's claim of all such income is incommensurate with other states' constitutional right to tax an apportioned part of that income. Accordingly, the Oil Tax Act is unconstitutional under the Commerce and Due Process Clauses of the United States Constitution.

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C.

THE OIL TAX ACT IS UNCONSTITUTIONAL  
BECAUSE ALASKA'S OIL TAX POLICY IMPOSES TAXES ON  
COUNTERCLAIMANTS THAT ARE WHOLLY DISPROPORTIONATE  
TO ANY SERVICES PROVIDED BY THE STATE

27. The Due Process Clause, the Equal Protection Clause, and the Commerce Clause of the United States Constitution require that the taxes levied by a state on a multistate business taxpayer be fairly related to the services and protection received by the taxpayer from the state. Alaska's oil tax policy, of which the Oil Tax Act is the culmination, violates these constitutional requirements by levying taxes on counterclaimants that are wholly disproportionate to the services provided to them by Alaska.

28. Since oil was discovered at Prudhoe Bay in 1968, Alaska has pursued a course of imposing increasingly higher and increasingly discriminatory severance, property, and income taxes on the oil business. The course of Alaska's oil tax policy has been consistent; it has responded to the simple goal of imposing whatever tax will yield the most revenue under the circumstances then prevailing. Alaska has steadily increased the number and level of petroleum taxes until today the oil industry accounts for approximately 90 per cent of Alaska's total unrestricted revenue, as shown in the following chart from Alaska's June 1980 Quarterly Update on Revenue Sources.

	<u>Fiscal Year</u>	<u>Total Unrestricted State Revenue</u>	<u>Total Petroleum Revenue</u>	<u>Per Cent From Petroleum</u>
1				
2				
3	1971	220.4	46.2	21
4	1972	219.2	47.1	21
5	1973	208.1	49.3	24
6	1974	255.1	79.3	31
7	1975	333.3	87.6	26
8	1976	709.7	386.1	54
9	1977	878.1	476.3	54
10	1978	837.8	483.4	58
11	1979	1,262.5	902.1	71
12	1980*	2,954.6	2,596.4	88
13	1981*	4,219.8	3,868.8	92
14	1982*	5,758.0	5,400.0	94

15 \*Estimate

16  
 17 While raising taxes applicable to the oil industry, Alaska's  
 18 Legislature has reduced them for other taxpayers. Alaska has  
 19 repealed the personal income tax in its entirety. It has  
 20 also enacted a measure that will give an annual rebate of  
 21 millions of dollars to all residents of Alaska. This rebate  
 22 will be financed by Alaska's taxes on the oil business.

23  
 24 29. Alaska's toll on oil production includes a variety  
 25 of discriminatory taxes. Although several extraction industries  
 26 must pay severance or similar taxes in Alaska, the State has  
 27 increased the severance tax on oil and gas production five  
 28 times since 1963 until, at approximately 11.5 per cent of  
 29 actual value, the severance tax on oil is greatly in excess  
 30 of the effective rate paid by any other industry. AS 43.55.010