

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2839

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

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

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

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

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

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

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

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

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

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

30 (19) person who is licensed as a transporter, or who provides
31 transportation services under a transporter license, to knowingly accompany or remain

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

7 * Sec. 26. AS 08.54.720(f) is amended to read:

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

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

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

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

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

26 * Sec. 27. AS 08.54.730 is amended to read:

27 Sec. 08.54.730. Injunction against unlawful action. When in the judgment
28 of the board [DEPARTMENT], a person has engaged in an act in violation of
29 AS 08.54.620(b), 08.54.630(b), 08.54.650(b), 08.54.710(g), or 08.54.720(a) or the
30 regulations adopted under these statutes, the board [DEPARTMENT] may apply to
31 the appropriate court for an order enjoining the action. Upon a showing by the board

1 [DEPARTMENT] that the person is engaging in the act, the court shall grant
2 injunctive relief or other appropriate order without bond.

3 * Sec. 28. AS 08.54.740 is amended to read:

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

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

14 * Sec. 29. AS 08.54.750 is amended to read:

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

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

24 (1) more than three guide use areas during a calendar year; or

25 (2) a guide use area that is outside of a game management unit for
26 which the registered guide-outfitter [GUIDE] is certified under AS 08.54.600.

27 (c) Notwithstanding (a) and (b) of this section, a registered guide-outfitter
28 [GUIDE] may register to conduct big game hunting services within a guide use area at
29 any time before beginning operations in the guide use area and may conduct big game
30 hunting services in a guide use area, or for a big game species in a guide use area, that
31 is not one of the three guide use areas for which the registered guide-outfitter

1 [GUIDE] has registered under (b) of this section if the Department of Fish and Game
2 has determined by regulation that it is in the public interest to suspend the registration
3 requirements for that guide use area or for all guide use areas in a game management
4 unit or game management subunit for a big game species within those guide use areas.

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

14 (e) In this section, "guide use area" means a geographic area of the state
15 identified as a guide-outfitter use area by the former Big Game Commercial Services
16 Board established under former AS 08.54.300 and described on a set of maps titled
17 Guide-Outfitter Use Area Maps, dated June 22, 1994, as amended by the board as
18 the board considers necessary.

19 * Sec. 30. AS 08.54.750 is amended by adding new subsections to read:

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

1 productivity a big game prey population.

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

8 * Sec. 31. AS 08.54.760 is amended to read:

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

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

29 * Sec. 32. AS 08.54.760 is amended by adding a new subsection to read:

30 (c) Forms, records, and reports required under this chapter may be distributed,
31 received, and stored electronically.

1 * **Sec. 33.** AS 08.54.770 is amended to read:

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

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

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

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

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

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

20 * **Sec. 34.** AS 08.54.790 is amended to read:

21 **Sec. 08.54.790. Definitions.** In this chapter,

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

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

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

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

1 (5) [(4)] "department" means the Department of Commerce,
2 Community, and Economic Development;

3 (6) [(5)] "field" means an area outside of established year-round
4 dwellings, businesses, or other developments [USUALLY] associated with a city,
5 town, or village; "field" does not include permanent hotels or roadhouses on the state
6 road system or state or federally maintained airports;

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

9 (8) [(7)] "guide" means to provide, for compensation or with the intent
10 or with an agreement to receive compensation, services, equipment, or facilities to a
11 big game hunter in the field by a person who accompanies or is present with the big
12 game hunter in the field either personally or through an assistant; in this paragraph,
13 "services" includes

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

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

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

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

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

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

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

28 (9) [(8)] "outfit" means to provide, for compensation or with the intent
29 to receive compensation, services, supplies, or facilities to a big game hunter in the
30 field, by a person who neither accompanies nor is present with the big game hunter in
31 the field either personally or by an assistant;

1 (10) [(9)] "transportation services" means the carriage for
2 compensation of big game hunters, their equipment, or big game animals harvested by
3 hunters to, from, or in the field; "transportation services" does not include the carriage
4 by aircraft of big game hunters, their equipment, or big game animals harvested by
5 hunters

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

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

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

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

24 * Sec. 35. AS 16.05.407(a) is amended to read:

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

27 (1) a person who is licensed as

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

31 (B) a class-A assistant guide or an assistant guide under

1 AS 08.54 and who is employed by a registered guide-outfitter [GUIDE] or a
2 master guide-outfitter [GUIDE] who has a contract to provide big game
3 hunting services to the nonresident; or

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

5 (A) the spouse of the nonresident; or

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

8 * Sec. 36. AS 16.05.407(f) is amended to read:

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

15 * Sec. 37. AS 16.05.408(a) is amended to read:

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

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

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

25 * Sec. 38. AS 16.05.408(c) is amended to read:

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

1 hunt.

2 * **Sec. 39.** AS 23.10.055 is amended to read:

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

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

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

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

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

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

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

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

31 (8) an individual employed solely as a watchman or caretaker of a

1 plant or property that is not in productive use for a period of four months or more;

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

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

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

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

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

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

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

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

28 (15) an individual engaged in activities for a nonprofit religious,
29 charitable, civic, cemetery, recreational, or educational organization where the
30 employer-employee relationship does not, in fact, exist, and where services are
31 rendered to the organization under a work activity requirement of AS 47.27 (Alaska

1 temporary assistance program);

2 (16) an individual who

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

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

7 (C) provides ski patrol services on a voluntary basis; or

8 (17) a student participating in a University of Alaska practicum
9 described under AS 14.40.065.

10 * Sec. 40. AS 39.50.200(b) is amended by adding a new paragraph to read:

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

12 * Sec. 41. AS 41.23.420(d) is amended to read:

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

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

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

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

21 * Sec. 42. AS 44.62.330(a)(21) is amended to read:

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

26 * Sec. 43. The uncoded law of the State of Alaska is amended by adding a new section to
27 read:

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

1 members serve for two years, two members serve for three years, and three members serve for
2 four years.

3 (b) The governor shall appoint the initial members of the Big Game Commercial
4 Services Board, as provided for under AS 08.54.591(a), added by sec. 3 of this Act, before
5 December 1, 2005.

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

9 * Sec. 44. The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

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

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

25 * Sec. 45. The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

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

1 adopted or until repealed or otherwise amended under the provisions of this Act.

2 * **Sec. 46.** Sections 3, 17, and 43 - 45 of this Act take effect immediately under
3 AS 01.10.070(c).

4 * **Sec. 47.** Except as provided in sec. 46 of this Act, this Act takes effect on the day on
5 which the Big Game Commercial Services Board convenes its first meeting. The
6 commissioner of community and economic development shall inform the revisor of statutes
7 and the lieutenant governor of the date on which the Big Game Commercial Services Board
8 convenes its first meeting.



Representative Ralph Samuels

House District 29

HB 76 Sponsor Statement

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

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

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

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



Representative Ralph Samuels

House District 29

HB 76

Other than the simple transference of powers from the Division of Occupational Licensing to the Board, HB 76 makes the following key changes:

- The board will be made up of 2 licensed guides, 2 licensed transporters, 1 member selected by the Board of Game, two representing private landholders, and two members from the public,
- The board may adopt regulations to establish a code of ethics,
- Violations of federal law will now come under the oversight of the board,
- The board can implement training courses for assistant guides,
- Written contracts are now required for both guides and transporters,
- There is broader authority to impose disciplinary actions and the civil penalty the board can levy is \$5000 (up from \$1000,)
- Transporters and guides must obtain permission before entering private, state or federal land to conduct business,
- Guides may no longer select more than their three guide use areas in a given calendar year,
- The board may amend guide use areas as it sees fit,
- Special predator hunts for carnivores may allow guides to select additional use areas when the Board of Game deems predation a threat to other game species,
- The board may adopt transporter use areas as it sees fit,
- The Board must grant a license to someone who has satisfied the statutory requirements for a license.

LEGAL SERVICES

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

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MEMORANDUM

March 3, 2005

SUBJECT: Sectional Summary of CSHB 76(FIN) am; An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services (Work Order No. 24-LS0332\F.A)

TO: Representative Ralph Samuels
Attn: Henry Webb

FROM: George Utermohle 
Legislative Counsel

You have requested a sectional summary of CSHB 76(FIN) am; an Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services.

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

Throughout the bill wherever the term "registered guide" or "master guide" is used in statute it is replaced by "registered guide-outfitter" and "master guide-outfitter," respectively.

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

Section 2 of the bill sets out the sunset date of the Big Game Commercial Services Board as June 30, 2008.

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

Section 4 of the bill amends AS 08.54.600 to provide for the transfer of responsibility for licensing and regulation of big game commercial services from the Department of Community and Economic Development to the Big Game Commercial Services Board and to eliminate the roster of registered guides and amend provisions relating to examinations for registered guide-outfitters.

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

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

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

Section 8 of the bill amends AS 08.54.610 to require that applicants for a registered guide-outfitter license have recent big game hunting experience, to provide for the transfer of responsibility for licensing and regulation of registered guides from the Department of Community and Economic Development to the Big Game Commercial Services Board and to replace the terms "registered guide" and "master guide" with "registered guide-outfitter" and "master guide-outfitter," respectively.

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

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

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

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

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

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

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

Section 17 of the bill amends AS 08.54.680 by adding a new subsection (c) to provide that on or after January 1, 2006, registered guides and transporters must have a written contract with clients before providing services to those clients.

Sections 18 and 19 of the bill amend AS 08.54.710(a) and (b), respectively, to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54 and to amend the list of acts for which the board may impose disciplinary sanctions.

Section 20 of the bill amends AS 08.54.710(e) to raise the maximum civil fine that can be imposed by the Big Game Commercial Services Board from \$1,000 to \$5,000 and to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Section 21 of the bill amends AS 08.54.710(d) to provide that the Big Game Commercial Services Board is responsible for imposing certain disciplinary sanctions upon persons licensed under AS 08.54.

Sections 22, 23, and 24 of the bill amend AS 08.54.710(e), (h), and (i), respectively, to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Section 25 of the bill amends AS 08.54.720(a) to provide that it is unlawful for a person licensed under AS 08.54 to commit or aid in the commission of a violation of a state or federal wildlife or game, guiding, or transportation services statute, to fail to report a violation of a state or federal wildlife or game, guiding, or transportation services statute by a client or employee within 20 days after the violation, to fail to have a valid Alaska hunting license in possession when guiding, or to remain on state, federal or private land without prior approval. Also, the term "registered guide" is replaced with "registered guide-outfitter" in several places.

Section 26 of the bill amends AS 08.54.720(f) to provide that the Big Game Commercial Services Board is responsible for suspending guide licenses and transporter licenses when ordered by a court.

Section 27 of the bill amends AS 08.54.730 to provide that the Big Game Commercial Services Board may obtain an injunction to halt certain violations of AS 08.54.

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Section 28 of the bill amends AS 08.54.740 to provide that a registered guide-outfitter or transporter is equally responsible for violations of federal wildlife laws by their employees and to replace the term "registered guide" with "registered guide-outfitter."

Section 29 of the bill amends AS 08.54.750 to prohibit registered guide-outfitters from withdrawing or amending a use area registration during a calendar year, to allow the Big Game Commercial Services Board to amend the boundaries of use areas, and to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and with the transfer of authority from the Department of Community and Economic Development to the Big Game Commercial Services Board.

Section 30 of the bill adds new subsections to AS 08.54.750 to provide that registered guide-outfitters may register for additional use areas to guide hunts for certain big game predator species under certain conditions and that transporters may be required to provide advance notice to the Department of Community and Economic Development before providing transportation services in a use area.

Section 31 of the bill amends AS 08.54.760 to provide that the Department of Community and Economic Development may make hunt records and activity reports available to federal and other law enforcement agencies and to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and with the transfer of authority from the Department of Community and Economic Development to the Big Game Commercial Services Board.

Section 32 of the bill amends AS 08.54.760 by adding a new subsection to provide that forms, records, and reports required under AS 08.54 may be distributed, received, and stored electronically.

Section 33 of the bill amends AS 08.54.770 to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and to clarify that the Department of Fish and Game is responsible for issuing hunting licenses.

Section 34 of the bill amends AS 08.54.790 to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and to add a definition of "board."

Sections 35 - 39 amend AS 16.05.407(a), 16.05.407(f), 16.05.408(a), 16.05.408(c), and AS 23.10.055, respectively, to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter."

Section 40 of the bill amends AS 39.50.200(b) by adding the Big Game Commercial Services Board to the list of boards and commissions whose members are subject to public officers financial disclosure.

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Section 41 of the bill amends AS 41.23.420(d) by substituting the Big Game Commercial Services Board for a reference to the Department of Community and Economic Development.

Section 42 of the bill amends AS 44.62.330(a)(21) by substituting the Big Game Commercial Services Board for a reference to the Department of Community and Economic Development in the list of agencies that are subject to the administrative adjudication provisions of the Administrative Procedure Act.

Section 43 of the bill provides for the initial appointment of the members of the Big Game Commercial Services Board.

Section 44 of the bill provides for the issuance of registered guide-outfitter licenses and master guide-outfitter licenses to persons who currently hold registered guide licenses and master guide licenses.

Section 45 of the bill is the Saving Clause.

Section 46 of the bill provides that secs. 3, 17, and 43 - 45 of the bill take effect immediately.

Section 47 of the bill provides that the remaining provisions of the bill take effect on the day that the Big Game Commercial Services Board holds its first meeting.

If I may be of further assistance, please advise.

GU:med

05-141.med

October 16, 2003

Members of the Legislative Budget
and Audit Committee:

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

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

October 16, 2003

Audit Control Number

08-30025-03

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

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

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

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

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

Objectives

Our specific audit objectives were:

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

Scope:

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

Methodology:

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

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

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

We interviewed the following individuals:

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

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

ORGANIZATION AND FUNCTION

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

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

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

Duties of DCED

DCED's statutory responsibilities include:

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

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

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

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

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

BACKGROUND INFORMATION

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

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

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

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

In 1976, the Legislature authorized establishment of Exclusive Guide Areas

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

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

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

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

⁷ Chapter 17, SLA 1973

⁸ Chapter 133, SLA 1976

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The BGCSB oversight regimen was to:

1. Provide for the conservation of the game resources.
2. Provide for equal opportunity to all qualified guide-outfitters when access to hunting rights are assigned or reassigned.
3. Provide financial compensation to the state for the commercial harvest of Alaska's big game resources to be used for game management purposes.
4. Designate the Alaska Department of Fish and Game as the lead agency to formulate guide use areas within the department's game management units.
5. Provide for long-term stability and economic health of any commercial industry utilizing big game resources.
6. Include recommendations from private and public land owners in order to ensure statewide applicability.

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

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

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

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

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

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

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

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

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

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

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

¹² Chapter 95, SLA 94

¹³ Chapter 33, SLA 96

¹⁴ The BGCSB regulation addressing ethics reads as follows:

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

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

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

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

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

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

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

USFS uses a carrying capacity analysis to determine the level of permitting activity in national forests. In determining how many guides are allowed to operate in the national parks and refuges, NPS and USFWS essentially adopted the state's old ECA concept. These two federal agencies: limit the number of guides that are allowed to operate; give each guide an exclusive area within the park or refuge; impose an extensive number of detailed operating requirements on the guides selected; and, if guides are found in violation of the agency's operating agreements, they may be subject to losing their right to guide altogether. See Exhibit 1, for an expanded discussion of how the various federal agencies regulate big game guide operations.

Federal Agencies Regulate Guides in a Slightly Different Ways

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

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

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

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

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

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

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

Carrying out game management through guide oversight typically means limiting access

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REPORT CONCLUSIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

²⁰ 1995 Alaska Statute 08.54.590 (1-4) defined *Unethical Activity* as specifically including:

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

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

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

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

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

Using an occupational guide board to manage game is problematic

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

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

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

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

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

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

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

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

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

²² Alaska Statute 44.66.050(c)(7)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

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

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

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

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

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

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

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

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

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

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

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

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

²³ AS 08.54.660 (b)4

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

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

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

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

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

²⁵ The mandatory operating plan must include, as an example, the following: 1) the uses allowed, the total amount of use authorized, in terms of service days, hunts, or other appropriate unit of measure; 2) description of authorized area of use; 3) liability insurance; 4) operating and safety plans; 5) compliance with federal, state, and local laws and ordinances.

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

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

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

APPENDICES

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

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

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

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

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

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

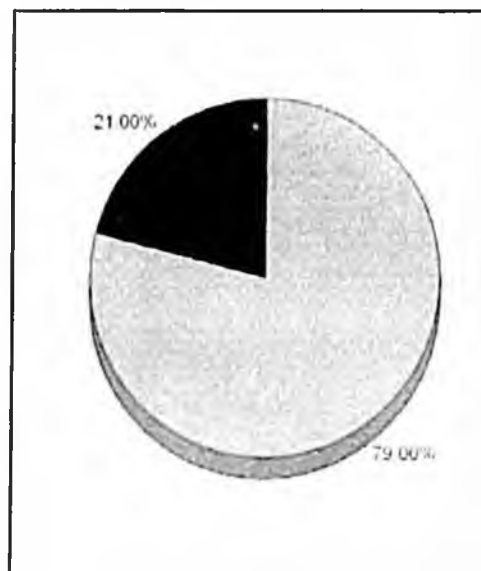
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Appendix A

Department of Community and Economic Development Guide Clients – Survey Results

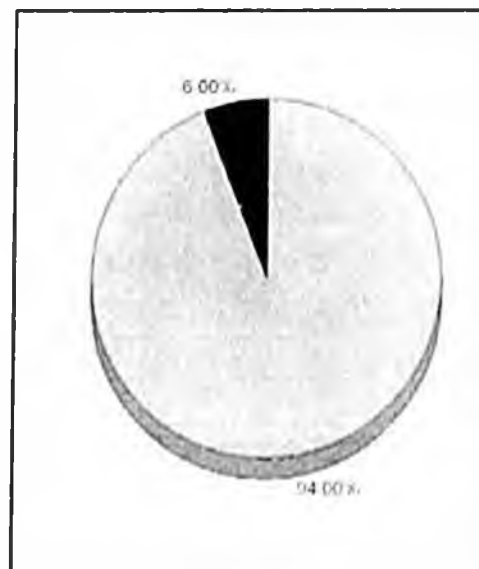
Question No. 1 – Did you have a written contract with the guide?

Responses	Number	Percent
■ Yes	123	79.00%
■ No	32	21.00%



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

Responses	Number	Percent
■ Yes	116	94.00%
■ No	7	6.00%



Appendix A

Department of Community and Economic Development Guide Clients – Survey Results

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

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

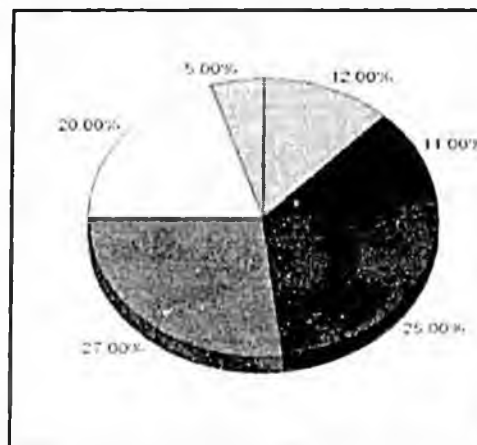
¹ DOI. Investigator called client in February 2003 and indicated that he would interview the guide in March but did not think he could do anything.

Appendix A

Department of Community and Economic Development Guide Clients – Survey Results

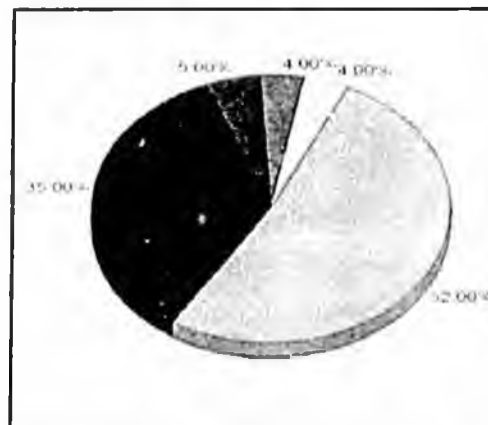
Question No. 4 – How much did you pay your guide for your hunt?

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



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

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



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

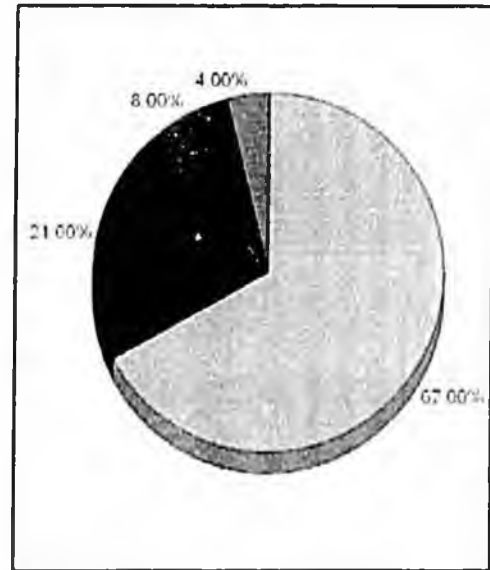
Responses	Number	Percent
Do not know	73	42.94%
Other State Owned	25	14.71%
Alaska Native Owned	18	10.59%
Nat'l Wildlife Refuge	15	8.82%
Nat'l Park Service	10	5.88%
Other Federal Land	10	5.88%
U.S. Forest Service	7	4.12%
Other	7	4.12%
State Park Service	5	2.94%
Private	0	0.00%

Appendix A

Department of Community and Economic Development
Guide Clients – Survey Results

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

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



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

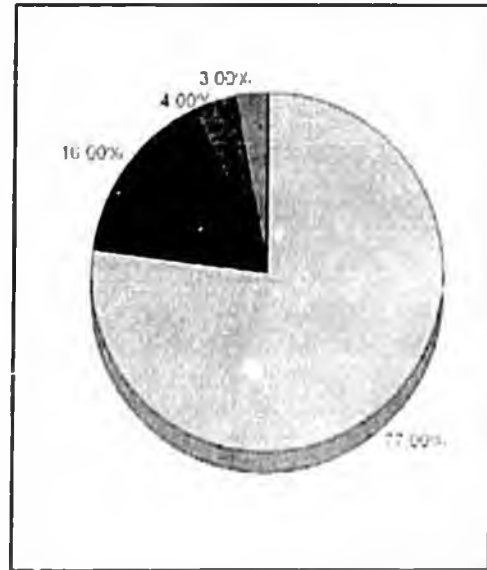
Responses	Number	Percent
Unsuccessful Hunt	12	22.0%
Lack of game animals in the area	11	20.0%
Bad weather	6	11.0%
Other	6	11.0%
Incompetent guides and/or assistant guides	5	9.0%
Poor camp conditions (inadequate shelter, poor or limited food)	4	7.0%
Inadequate or poor equipment	4	7.0%
Put in an unsafe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

Appendix A

Department of Community and Economic Development
Guide Clients – Survey Results

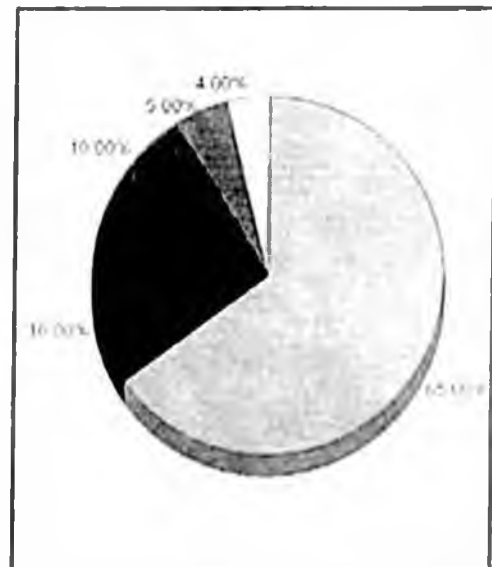
Question No. 9 – Based on your experience with this guided hunt, how likely would you return in the future to hunt big game in Alaska with a guide?

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



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

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



Appendix A

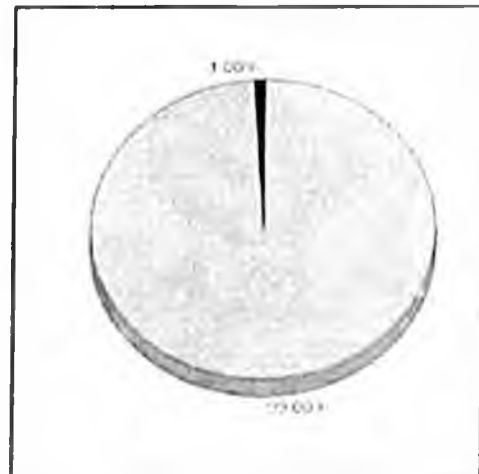
Department of Community and Economic Development
Guide Clients – Survey Results

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

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

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

Responses	Number	Percent
Yes	152	99.00%
■ No	1	1.00%

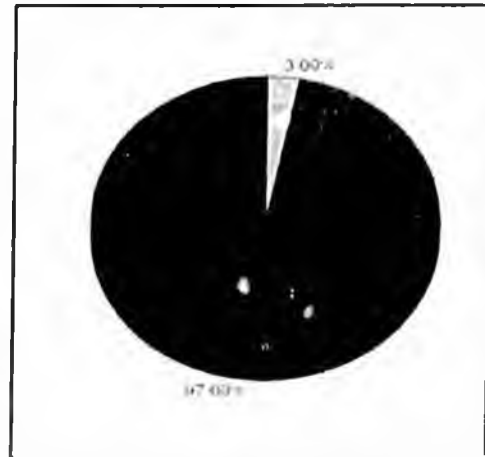


Appendix A

Department of Community and Economic Development
Guide Clients – Survey Results

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

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



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

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

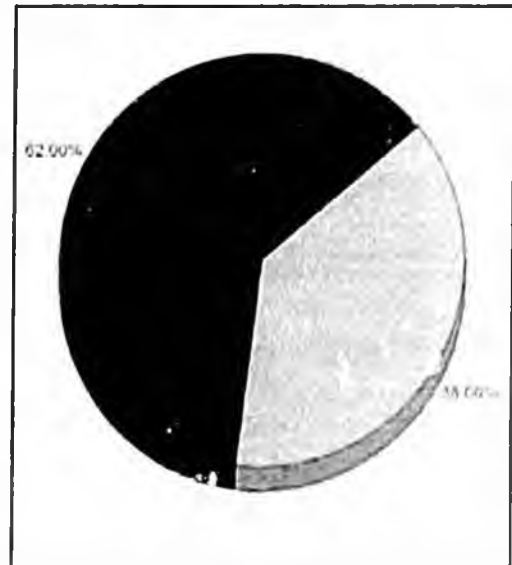
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Appendix B

Department of Community and Economic Development
Transporter Client – Survey Results

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

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



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

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

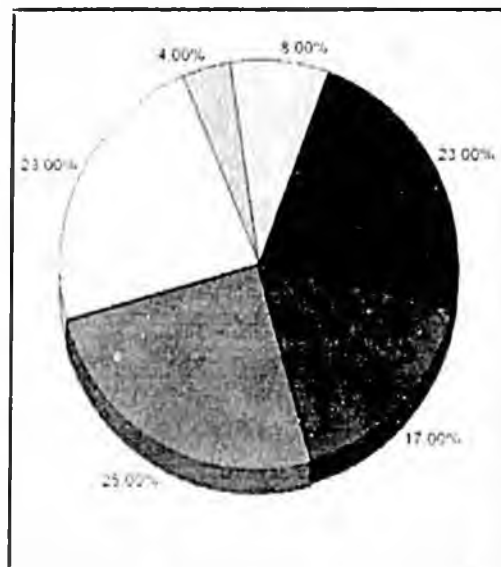


Appendix B

Department of Community and Economic Development
Transporter Client – Survey Results

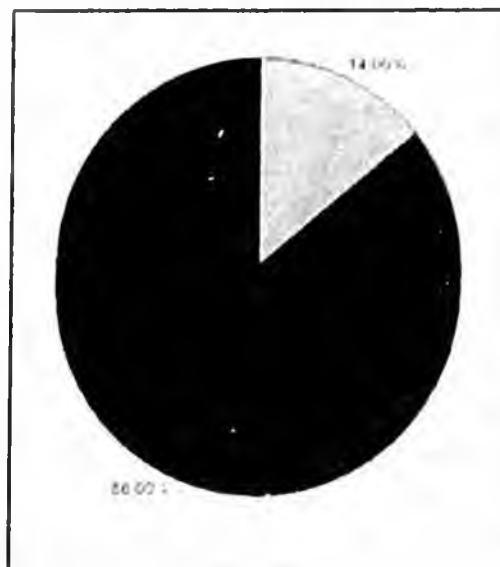
Question No. 3 – How much did you pay the transporter for all transportation, and if applicable, accommodations in the hunt area?

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



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

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

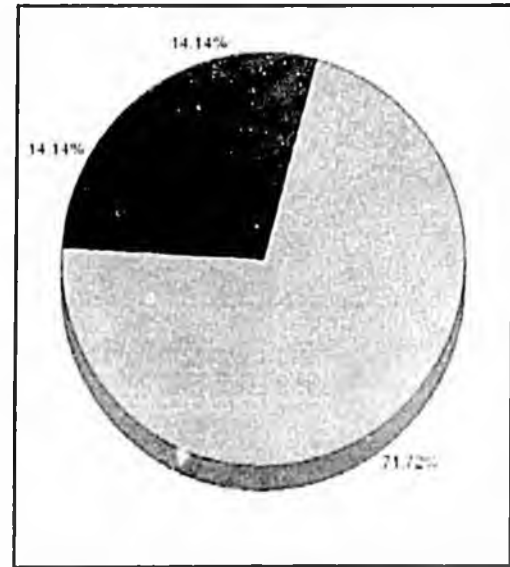


Appendix B

Department of Community and Economic Development
Transporter Client – Survey Results

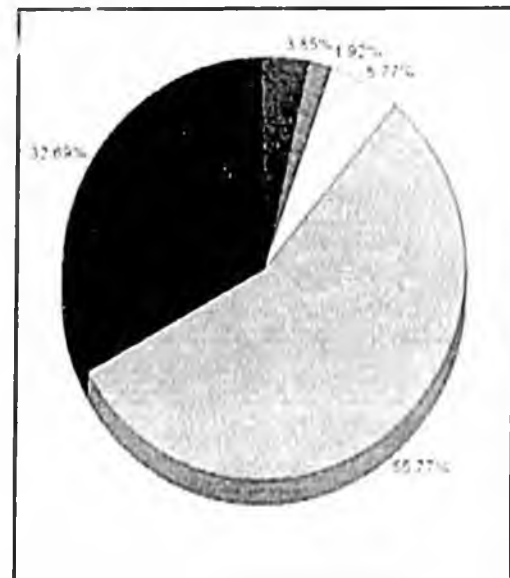
Question No. 5 – If transportation was part of the guided hunt contract, how much did you pay the guide for the hunt?

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



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

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



Appendix B

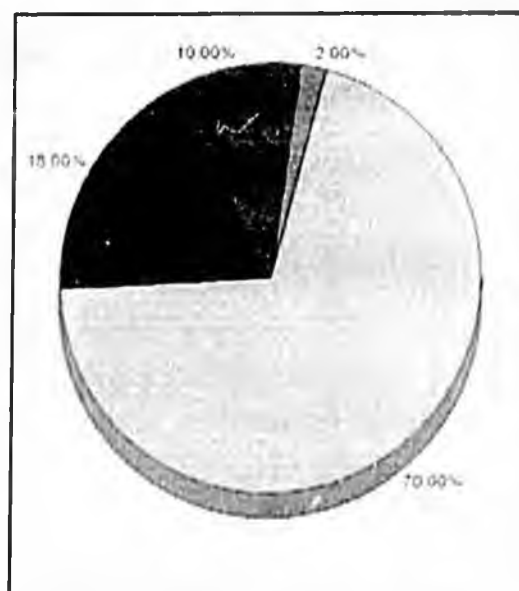
Department of Community and Economic Development Transporter Client – Survey Results

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

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

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

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



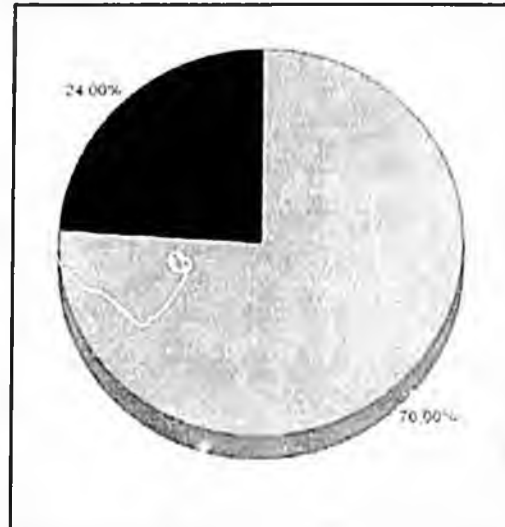
Some of the reasons identified for those who indicated less than satisfactory hunt or transporter experience were: lack of game animals, too many other hunters, bad weather, or wrong location.

Appendix B

Department of Community and Economic Development Transporter Client – Survey Results

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

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



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

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

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November 17, 2003

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

RE: GUIDES AND TRANSPORTERS – PRELIMINARY AUDIT

Dear Ms. Davidson:

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

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

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

Sincerely,

Edgar Blatchford
Commissioner

cc: Rick Urton, Director
Division of Occupational Licensing

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STATE OF ALASKA

DEPARTMENT OF FISH AND GAME OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI
GOVERNOR

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

November 7, 2003

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

Dear Mr. Davidson:

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

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

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

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

Sincerely yours,

Wayne Regelin
Deputy Commissioner

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March 18, 2003

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

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

Dear Senator Therriault and Speaker Kott:

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

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

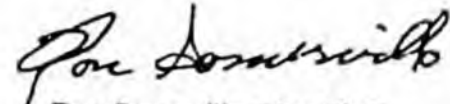
Unregulated guiding operations and uncontrolled access by transporters to the remote areas of our state have created significant and unnecessary conflicts. Congestion, wanton waste, complaints from clients, safety concerns and major conflicts with local hunters has created a climate of hostility in some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

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

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

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

Sincerely,



Ron Somerville, Vice Chair
Board of Game

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

SENATE COMMITTEE REPORT

DATE: 3/3/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3/7/05

Resources Committee considered CS FOR HOUSE BILL NO. 76(FIN) am

HB 76 BIG GAME SERVICES & COMM. SERVICES BD

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

and recommends:

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

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

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
F&G	2/4			✓	1
DPS	2/4			✓	2
CCED	2/11	 	 	 	5
DNR	2/11			✓	4
CCED	2/11	✓			5

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
Elton <i>[Signature]</i>	✓			
Guess <i>[Signature]</i>			✓	
Dyson <i>[Signature]</i>			✓	
Seckins <i>[Signature]</i>	✓			
Stelman <i>[Signature]</i>			✓	
B. Skens <i>[Signature]</i>	✓			
Wugener <i>[Signature]</i> CHAIR:	✓			

HB

79

HFIN

FILE

2/8/05

Director's Office
PO Box 110017
Juneau, Alaska 99811-0017
907.465.4611 907.465.3203 fax
elections@gov.state.ak.us

Regional Offices
Anchorage 907.522.8683
Fairbanks 907.451.2835
Juneau 907.465.3021
Nome 907.443.5285

STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

Below are highlighted examples of the unanticipated and/or excessive costs for the 2004 Election cycle incurred by the Division of Elections. While the costs listed below exceed the \$694.9 requested in HB 79, the Division believes the amount requested in the Supplemental will enable the Division to operate through the end of FY 05.

Unanticipated and/or Excessive Costs Related to the 2004 Election Cycle

Additional Personal Services costs incurred in 2004 compared to 2002 \$304.0

During the 2004 election cycle, the Division received and processed 5 initiative petitions, one recall petition, and a record number of absentee by-mail applications. This additional workload required the Division to hire an additional 13 temporary workers to process mail, answer phones, process applications and perform data entry. This caused an increase in staff costs and overtime for both temporary and full time employees in 2004 compared to what was incurred in the 2002 elections.

Ballot Reprint costs totaled \$243.2

A Superior Court decision mandated the Division reprint the ballots for the 2004 election. The Division absorbed additional costs for reprinting ballots (203.1), expedited freight costs for paper stock (35.6), destruction costs for destroying previously printed ballots (4.3), and Personal Services costs (.2).

To date costs for conducting MOA election \$104.6

The Municipality of Anchorage requested that the State include two bond questions on the General Election ballot. The Agreement is authorized by article X, section 13 of the Alaska Constitution, AS 36.30.700 - 36.30.790, Anchorage Municipal Code (AMC) 28.10.050, and conforms to legislative intent in Sec. 1, ch. 82 SLA 2000. Additional costs for conducting this election will be collected through the "Bill of Collection" process and added back into the General Fund.

To date costs for conducting a Statewide Recount \$ 39.8

In December of 2004 the Division conducted two recounts - one for House District 5 requested by candidate Tim June, and a statewide recount that was requested by Alaskan's for Fair Elections. The recount total expenditures exceeded the \$750 and \$10,000 deposits "respectively" that are required under AS 15.20.450. Deposits for the recounts were collected and deposited into the General Fund. The total costs for the recounts were absorbed by the Division.

Unanticipated and/or Excessive Costs Related to the 2004 Election Cycle

Independent counsel **\$ 37.6**

Independent Counsel was sought to provide review and advice related to the Ogan recall petition.

Mainframe Chargeback costs **\$ 23.3**

The rise in absentee by-mail applications and voter registration forms increased the Division's chargeback costs for data entry time on the mainframe.

Expedited printing and freight costs for forms **\$ 22.1**

Due to the large number of political mailings of absentee by mail applications to voters that generated higher absentee by mail participation by Alaskans, the Division processed a record number of applications. This unexpected increase required the Division to place last minute orders for additional forms and envelopes needed for mailing ballots.

Increased Postage Costs **\$ 19.0**

The Division's postage costs increased due to higher by-mail turnout.

Additional Fax Press Machines **\$ 11.7**

In 2004, voter turnout for absentee by-fax increased 100% from the last presidential election in 2000. The Division's existing fax press could not handle the demand. The Division installed an additional 16 phone lines and purchased 2 8-line fax press machines to handle the incoming and outgoing faxes.

2/8/05

INTERGOVERNMENTAL COOPERATION AGREEMENT FOR THE
PURPOSE OF THE STATE OF ALASKA CONDUCTING A SPECIAL
MUNICIPAL ELECTION FOR THE MUNICIPALITY OF ANCHORAGE
CONCURRENT WITH THE STATE-CONDUCTED
NOVEMBER 2, 2004, GENERAL ELECTION

This Intergovernmental Cooperation Agreement (hereafter "Agreement"), is for the purpose of authorizing the State of Alaska (hereafter "State" or "Division of Elections") to conduct a special municipal election, at the request of the Municipality of Anchorage (hereafter "MOA"), for submission to the qualified voters of the MOA certain municipal ballot propositions related to MOA school construction bonds. The special municipal election is to be conducted concurrently with the State-conducted November 2, 2004 general election.

Further, the Agreement provides for the joint exercise of the powers of the State and the MOA to conduct elections. The Agreement is authorized by article X, section 13 of the Alaska Constitution, AS 36.30.700 - 36.30.790, Anchorage Municipal Code (AMC) 28.10.050, and conforms to legislative intent in Sec. 1, ch. 82 SLA 2000.¹

The consideration for this Agreement is the duties and obligations of the parties set forth below.

¹ Sec. 1, ch. 82, SLA 2000 reads:

* Section 1. The uncodified law of the State of Alaska is amended by adding a new section to read:

INTENT. The division of elections shall facilitate the coordination of local government elections with regular state elections if requested to do so by a local government.

1. Municipality of Anchorage

- a. The MOA will prepare its ballot language for the special election ballot questions following MOA legal requirements.
- b. The MOA shall pay all costs associated with the printing of the municipal election ballot language to be included with the State's general election ballot.
- c. The MOA shall pay the State for actual costs and/or proportionate costs associated with the conduct of a municipal special election as set forth in Attachment A to this Agreement, which is incorporated herein.
- d. The MOA shall provide for all advertising and notification to Anchorage voters of the municipal bond ballot questions as required under the State election code, AS 15, and the MOA code.
- e. The MOA shall be responsible for identifying the qualified voting precincts.
- f. The MOA shall defend and hold the State harmless from any claim, suit, or liability arising out of a dispute over the wording of the municipal ballot, or any alleged violation of election procedures caused by the Municipality of Anchorage's negligence.
- g. The MOA is responsible for the distribution of final, certified election results concerning the municipal special election ballot questions.

- h. The MOA is responsible for obtaining pre-clearance from the U.S. Department of Justice under Section 5 of the Voting Rights Act of the election procedures set forth in this Agreement for the municipal special election.
- i. The MOA shall publish a notice of election that designates an office, website, or individual to whom questions concerning the municipal special election ballot can be referred by State employees, and publish the website address, e-mail address(es), address and phone number(s) as applicable.

2. State of Alaska – Division of Elections

- a. The Division of Elections shall determine ballot quantities and ballot sequence numbers, and provide, as necessary, for the printing and ordering of the municipal special election ballot questions from the State's ballot printer. It will be at the State's option and discretion as to whether the municipal special election ballot questions will be included on the State's general election ballot or be printed on a separate ballot.
- b. The Division of Elections boards will disseminate the municipal special election ballots at the Anchorage area polling places on Election Day.
- c. The Division of Elections will disseminate the municipal special election ballot in accordance with State absentee ballot procedures to the extent State procedures are consistent with the MOA absentee ballot procedures. The parties agree, however, that AS 15.20.082 and 6 AAC 25.660 do not, as a matter of law, apply to the MOA, and the parties further agree that the


Division of Elections is not required to provide or otherwise make available the MOA's municipal special election ballot at polling places outside of the Anchorage area polling places.

- d. The Division of Elections will count ballots using the established State procedures and rules for counting, and will count the municipal special election ballots at the same established times as the State's ballots.
- e. The Division of Elections will provide the MOA with a State election calendar and ballot counting schedules.
- f. The Division of Elections will provide the MOA with the unofficial preliminary election results through its regular distribution process for the MOA to use at its own discretion. The Division of Elections will also provide the MOA with the final certified elections result.

3. Miscellaneous

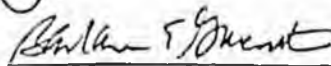
- a. The municipal special election ballots, precinct registers, and all other election related records are the property of, and will remain in the custody of the Division of Elections.
- b. All costs associated with any election contest concerning the municipal special election ballot shall be borne by the MOA.

This Agreement is effective on the date the last party signs.



Laura A. Glaiser, Director
Division of Elections
State of Alaska

Dated: September 23, 2004.



Barbara E. Gruenstein
Municipal Clerk
Municipality of Anchorage

Dated: September 23, 2004

Attachment A

The following costs incurred by the State of Alaska in conducting the MOA's municipal special election pursuant to the Agreement shall be reimbursed in full by the MOA:

1. Costs associated with programming and testing of Accu-Vote.
2. Costs associated with printing of the municipal special ballot questions on a separate card, sample ballots, and copies of proposed law required to be available and displayed at each polling place.
3. Shipping costs related to additional ballot (including costs of shipping voted ballots to Juneau for review by State Review Board).
4. Additional postage costs for the State to mail two ballots (if applicable).
5. Costs of additional, temporary staff necessary to handle two ballots, including salary and overtime (ballot loggers, election board members, poll workers, ballot stuffers, etc.).
6. Division staff time related to the MOA special election ballot, including certification and recount costs.
7. Costs related to facsimile teams (for duplication of two ballots instead of one).

2/8/05

Election Statistics

	2000	2004	Percentage Increase
Number of Voters Who Cast a Ballot	232,852	314,502*	35%
Turnout in General Election	51%	67%**	16%
Absentee By-Mail Ballots Mailed	28,886	58,559	103%
Absentee By-Mail Ballots Voted	24,339	32,075	32%
Absentee In Person	23986	36,228	51%
By Fax Voting	1,548	3,149	103%
Special Advance Ballots	501	3,932	685%
Federal Write-in Ballots	6	805	1332%

* - Denotes Highest Since Statehood

** - Denotes Highest in Last 12 Years

2/8/05

FY 2005 DIVISION OF ELECTIONS BUDGET STATUS AS OF JANUARY 24, 2005					REMAINING						1/24/2005
					JANUARY	1/31/2005	FEBRUARY	2/28/2005	MARCH-JUNE	7/31/2005	
					PROJECTED	PROJECTED	PROJECTED	PROJECTED	PROJECTED	PROJECTED	
FY 04 AR 05-1632-05 ELECTIONS/OPERATIONS	AUTHORIZ*	EXPENDED	OBLIGT'D	BALANCE	EXPEND	BALANCE	EXPEND	BALANCE	EXPEND	BALANCE	
S** 71000 PERSONAL SERVICES	805,200	642,152	0	163,048	75,356	87,692	132,856	-45,164	573,568	-618,732	
S** 72000 TRAVEL	15,400	6,652	0	8,748	1,264	7,484	2,646	4,838	8,923	-4,085	
S** 73000 SERVICES	504,600	339,266	187,599	-22,265	2,474	-24,739	13,858	-38,597	66,522	-105,119	
S** 74000 COMMODITIES	23,800	8,404	527	14,869	602	14,267	911	13,356	2,920	10,436	
S** 75000 CAPITAL OUTLAY	0	0	0	0	0	0	0	0	0	0	
S** 70000 TOTAL EXPENDITURES	1,349,000	996,474	188,126	164,400	79,696	84,704	150,271	-65,567	651,933	-717,500	

Expenditure projections based on FY 2004 actuals less equipment and one-time items.
 *Note: \$442,800 in HAVA funding in Commodities and Capital Outlay for Voter Verifiable Paper Trail for Optically Scanned Ballots has been deducted from authorized for management reporting purposes. \$181,300 in CIP Receipts for Personal Services has also been reduced for management reporting purposes.