

SCOMM

67:20

changed in State Revenue

changed in State Finance

Original sponsor(s): Rules Committee by Request

1 IN THE SENAT^P

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 422 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to guide-outfitter use area permits,

7

the Big Game Commercial Services Board, guide-out-

8

fitters, transporters and air carriers, and providers

9

of other big game commercial services, and commercial

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use permits; and providing for an effective date."

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

12

* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

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(1) unregulated access to game management units by guide-out-

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fitters

15

(A) can potentially harm the state's valuable big game

16

resources by allowing overharvest of big game species or populations

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that have a low recovery capacity or that exist in low abundance; and

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(B) has hindered management of hunters guide-outfitted by

19

guide-outfitters, led to conflicts among guide-outfitters, and de-

20

creased the quality of the hunting experience for clients of guide-

21

outfitters and other hunters;

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(2) an economically viable guide-outfitter industry can offer a

23

quality hunting experience to hunters from throughout the world who seek a

24

unique opportunity to pursue and take trophy big game animals in the state

25

and can contribute significantly to the state's economy by increasing

26

tourism and supporting a variety of businesses associated with the guide-

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outfitter industry;

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(3) the guide-outfitter industry provides an opportunity for

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enhancing the state's economy, particularly the underdeveloped economies of

SB 422

1 the rural regions of the state;

2 (4) intense competition exists for big game in many parts of the
3 state and the allocation of access to big game hunting opportunities among
4 guide-outfitters will prevent overharvest of big game in those areas and
5 will provide continued open access to the big game resource by all users;

6 (5) a resource-based management system for allocating access to
7 big game hunting opportunities among guide-outfitters will alleviate con-
8 flicts among guide-outfitters, will provide an effective basis for regulat-
9 ing guide-outfitters, and will enhance conservation and management of big
10 game;

11 (6) a long-term interest in the conservation of wildlife encour-
12 ages sound management practices among users of wildlife and fosters a
13 mutually beneficial relationship between wildlife and the users of wildlife
14 because the user understands that the user's own future well-being is
15 dependent upon wise use of the resource in the present.

16 (b) The purpose of this Act is to

17 (1) establish a resource-based system of allocating access to
18 big game hunting opportunities among guide-outfitters that is fully con-
19 sistent with common use principles of the Constitution of the State of
20 Alaska; and

21 (2) support the conservation and management of the state's
22 wildlife, provide economic and noneconomic benefits to the state and to the
23 citizens of the state, and generate revenue for the state from the wise use
24 of wildlife for commercial purposes.

25 (c) This Act does not affect the existing rights and privileges of
26 subsistence and resident sport hunters to take game in the state.

27 * Sec. 2. AS 08.54 is amended by adding new sections to read:

28 ARTICLE 5. GUIDE-OUTFITTER USE AREAS.

29 Sec. 08.54.610. GUIDE-OUTFITTER USE AREAS. (a) The board shall

1 the rural regions of the state;

2 (4) intense competition exists for big game in many parts of the
3 state and the allocation of access to big game hunting opportunities among
4 guide-outfitters will prevent overharvest of big game in those areas and
5 will provide continued open access to the big game resource by all users;

6 (5) a resource-based management system for allocating access to
7 big game hunting opportunities among guide-outfitters will alleviate con-
8 flicts among guide-outfitters, will provide an effective basis for regulat-
9 ing guide-outfitters, and will enhance conservation and management of big
10 game;

11 (6) a long-term interest in the conservation of wildlife encour-
12 ages sound management practices among users of wildlife and fosters a
13 mutually beneficial relationship between wildlife and the users of wildlife
14 because the user understands that the user's own future well-being is
15 dependent upon wise use of the resource in the present.

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17 (1) establish a resource-based system of allocating access to
18 big game hunting opportunities among guide-outfitters that is fully con-
19 sistent with common use principles of the Constitution of the State of
20 Alaska; and

21 (2) support the conservation and management of the state's
22 wildlife, provide economic and noneconomic benefits to the state and to the
23 citizens of the state, and generate revenue for the state from the wise use
24 of wildlife for commercial purposes.

25 (c) This Act does not affect the existing rights and privileges of
26 subsistence and resident sport hunters to take game in the state.

27 * Sec. 2. AS 08.54 is amended by adding new sections to read:

28 ARTICLE 5. GUIDE-OUTFITTER USE AREAS.

29 Sec. 08.54.610. GUIDE-OUTFITTER USE AREAS. (a) The board shall

1 establish guide-outfitter use areas throughout the state. The board
2 shall consider the recommendations of the Department of Fish and Game
3 in identifying the boundaries of the use areas. The board shall adopt
4 the recommendations of the Department of Fish and Game for each use
5 area unless the board obtains a finding from the Department of Fish
6 and Game that an amended use area boundary as proposed by the board
7 will not adversely affect wildlife conservation and management.

8 (b) The board may amend the boundaries of use areas adopted
9 under (a) of this section if

10 (1) the Department of Fish and Game finds that the proposed
11 amendment will not adversely affect wildlife conservation and manage-
12 ment; and

13 (2) the board notifies all guide-outfitters who hold use
14 area permits for the affected use areas of the proposed amendment and
15 provides those guide-outfitters with an opportunity to comment on the
16 proposed amendment.

17 (c) AS 08.54.620 - 08.54.690 do not apply within an area or to
18 the activities of a guide-outfitter within an area of the state that
19 is not included within the boundary of a guide-outfitter use area
20 adopted by the board.

21 Sec. 08.54.620. OFFERINGS OF GUIDE-OUTFITTER USE AREAS. (a)
22 The board shall annually offer available use areas to qualified guide-
23 outfitters. The board shall stagger the offering of use areas.

24 (b) The board may request recommendations from the public for
25 use areas to be offered at the next offering of use areas.

26 (c) The board shall decide whether a use area will be offered
27 for sole or joint use before offering the use area. In making its
28 decision, the board shall consider for each use area

29 (1) information provided by the Department of Fish and Game

1 on the status of big game populations, historical harvests of big
2 game, and uses of wildlife in the use area;

3 (2) information gathered from previous use by guide-outfit-
4 ters that would facilitate big game management and planning;

5 (3) requirements for economically viable guide-outfitter
6 operations;

7 (4) the number of economically viable guide-outfitter
8 operations that the use area could support;

9 (5) the effect of guide-outfitting activities on resident
10 hunters; and

11 (6) other relevant factors, including land ownership con-
12 cerns, land management concerns, and law enforcement concerns.

13 (d) Use areas for which use area permits have expired, been
14 relinquished by the permittee, automatically revoked under AS 08.54.-
15 660, or revoked by the board may be offered by the board at the next
16 offering of use areas.

17 (e) The notice of the offering of use areas must include for
18 each use area

19 (1) the location and a brief description of the use area;

20 (2) whether the use area is available for sole or joint
21 use.

22 Sec. 08.54.630. GUIDE-OUTFITTER USE AREA PERMIT; REGISTRATION
23 PERMIT. (a) A guide-outfitter use area permit or registration permit
24 authorizes a guide-outfitter to guide-outfit hunts in the use area for
25 those big game species specified by the permit and may limit the
26 number of clients that may be guide-outfitted in the use area each
27 year.

28 (b) A sole use area permit grants to the permittee the sole
29 privilege to guide-outfit hunts for all big game species that occur

1 on the status of big game populations, historical harvests of big
2 game, and uses of wildlife in the use area;

3 (2) information gathered from previous use by guide-outfit-
4 ters that would facilitate big game management and planning;

5 (3) requirements for economically viable guide-outfitter
6 operations;

7 (4) the number of economically viable guide-outfitter
8 operations that the use area could support;

9 (5) the effect of guide-outfitting activities on resident
10 hunters; and

11 (6) other relevant factors, including land ownership con-
12 cerns, land management concerns, and law enforcement concerns.

13 (d) Use areas for which use area permits have expired, been
14 relinquished by the permittee, automatically revoked under AS 08.54.-
15 660, or revoked by the board may be offered by the board at the next
16 offering of use areas.

17 (e) The notice of the offering of use areas must include for
18 each use area

19 (1) the location and a brief description of the use area;

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24 authorizes a guide-outfitter to guide-outfit hunts in the use area for
25 those big game species specified by the permit and may limit the
26 number of clients that may be guide-outfitted in the use area each
27 year.

28 (b) A sole use area permit grants to the permittee the sole
29 privilege to guide-outfit hunts for all big game species that occur

1 within the use area. A joint use area permit grants to the permittee
2 the privilege to guide-outfit hunts in the use area for the big game
3 species specified in the permit; however, all joint use area permits
4 for a use area, when considered together, must grant privileges to
5 guide-outfit hunts for all big game species that occur within the use
6 area.

7 (c) A use area that is not awarded to a guide-outfitter under
8 AS 08.54.650 is open to use by guide-outfitters who are certified to
9 guide-outfit hunts in the game management unit in which the use area
10 is located and who obtain a registration permit for the use area. The
11 board may establish the number of registration permits that will be
12 issued for each use area. Registration permits are valid for the
13 calendar year in which they are issued. A registration permit must
14 specify the big game species for which hunts may be guide-outfitted
15 under the authority of the permit.

16 (d) A guide-outfitter may not guide-outfit a hunt for a big game
17 species in a use area, unless the guide-outfitter has a use area
18 permit or registration permit that entitles the guide-outfitter to
19 guide-outfit hunts for that species in that use area.

20 (e) A guide-outfitter shall physically participate in field
21 operations while guide-outfitted hunts are conducted under the author-
22 ity of a use area permit or registration permit held by the guide-
23 outfitter.

24 Sec. 08.54.640. APPLICATION FOR A GUIDE-OUTFITTER USE AREA
25 PERMIT. (a) A guide-outfitter who is licensed under AS 08.54.350 and
26 is certified by the board to guide-outfit hunts in the game management
27 unit in which the use area is located may apply for a guide-outfitter
28 use area permit.

29 (b) A guide-outfitter shall submit a separate application for

1 each use area permit sought. The application shall be made on a form
2 provided by the board and shall be accompanied by the application fee
3 and a proposed operations plan for the conduct of guide-outfitted
4 hunts under the use area permit, including locations of base camps,
5 the number of clients, and the big game species to be hunted.

6 (c) The department shall set the application fee for a guide-
7 outfitter use area permit under AS 08.01.065.

8 Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA
9 PERMIT. [REDACTED]

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 (b) The board shall evaluate each application and determine
16 whether the applicant is qualified for a guide-outfitter use area per-
17 mit under criteria adopted by the board, including

18 (1) the applicant's ability and means to provide the type
19 and quality of guide-outfitting services proposed by the applicant, as
20 demonstrated by the applicant's proposed operations plan;

21 (2) whether the applicant has proposed a guide-outfitting
22 operation in the use area that is economically feasible given the
23 economic resources of the applicant;

24 (3) the applicant's history of safety in guide-outfitting
25 hunts or demonstrated ability to guide-outfit hunts safely;

26 (4) the applicant's history of compliance with state and
27 federal fish and game and guide-outfitting statutes and regulations;

28 (5) the applicant's experience in or knowledge of the use
29 area;

1 each use area permit sought. The application shall be made on a form
2 provided by the board and shall be accompanied by the application fee
3 and a proposed operations plan for the conduct of guide-outfitted
4 hunts under the use area permit, including locations of base camps,
5 the number of clients, and the big game species to be hunted.

6 (c) The department shall set the application fee for a guide-
7 outfitter use area permit under AS 08.01.065.

8 Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA
9 PERMIT.

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[REDACTED]

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16 whether the applicant is qualified for a guide-outfitter use area per-
17 mit under criteria adopted by the board, including

18 (1) the applicant's ability and means to provide the type
19 and quality of guide-outfitting services proposed by the applicant, as
20 demonstrated by the applicant's proposed operations plan;

21 (2) whether the applicant has proposed a guide-outfitting
22 operation in the use area that is economically feasible given the
23 economic resources of the applicant;

24 (3) the applicant's history of safety in guide-outfitting
25 hunts or demonstrated ability to guide-outfit hunts safely;

26 (4) the applicant's history of compliance with state and
27 federal fish and game and guide-outfitting statutes and regulations;

28 (5) the applicant's experience in or knowledge of the use
29 area;

1 (6) the applicant's history of compliance with AS 08.54.-
2 520(a) in regard to prior authorization to enter or remain on state,
3 federal, or private land;

4 (7) whether the applicant has obtained those prior autho-
5 rizations to guide-outfit hunts on state, federal, or private land in
6 the use area from the significant or major landowners in the use area
7 or has demonstrated the ability to acquire those authorizations;

8 (8) whether the applicant holds all permits and licenses
9 necessary to guide-outfit hunts in the use area or has demonstrated
10 the ability to obtain the necessary permits and licenses.

11 (c) If the board determines that more applicants are qualified
12 to receive a use area permit for a use area than there are use area
13 permits available, then the board shall reevaluate the applications of
14 the qualified applicants and, with or without requesting additional
15 documentation, shall select the best qualified applicants to receive
16 the available permits. The board may request the qualified applicants
17 to appear before the board to discuss the applicant's application in
18 regard to the criteria in (b) of this section.

19 (d) The board shall award a use area permit only to a qualified
20 applicant.

21 (e) If a successful applicant does not provide, at the time the
22 board awards the use area permit, proof of the permits and licenses
23 necessary to guide-outfit hunts in the use area or the authorizations
24 to guide-outfit hunts on state, federal, or private land in the use
25 area from the significant or major landowners in the use area, the
26 board shall issue a conditional use area permit that is valid for 120
27 days. A conditional use area permit does not entitle the permittee to
28 guide-outfit hunts within the use area. If the successful applicant
29 provides proof satisfactory to the board within 120 days after

1 issuance of the conditional use area permit that the applicant has re-
2 ceived the necessary permits and licenses and land use authorizations,
3 the applicant shall be awarded a use area permit. If the successful
4 applicant does not provide the required proof within 120 days after
5 issuance of the conditional use area permit, the conditional use area
6 permit is void. If a conditional use area permit is voided under this
7 subsection, the board shall offer the use area permit to the next best
8 qualified applicant for the use area.

9 Sec. 08.54.660. TERM AND SUSPENSION OR REVOCATION OF GUIDE-
10 OUTFITTER USE AREA PERMIT; OPERATIONS PLAN. (a) The board shall
11 grant guide-outfitter use area permits for a term not to exceed 10
12 years, unless the board determines, after consultation with the De-
13 partment of Fish and Game, that a longer term will further promote the
14 wildlife conservation and management objectives of the use areas. The
15 term of a use area permit may not in any instance exceed 15 years.

16 (b) The board may after a hearing suspend or revoke a use area
17 permit for

- 18 (1) violation of the conditions of the use area permit;
- 19 (2) failure to exercise the privileges conferred by the use
20 area permit for one year;
- 21 (3) a significant unauthorized deviation, as defined by the
22 board, from an operations plan;
- 23 (4) fraud in applying for a use area permit or assignment
24 of a use area permit; or
- 25 (5) other good cause, as defined by the board.

26 (c) The board may suspend or revoke a use area permit upon
27 conviction of the permittee of an unlawful act under AS 08.54.520.

28 (d) A use area permit is revoked automatically upon revocation
29 of the permittee's guide-outfitter license. A use area permit is

1 issuance of the conditional use area permit that the applicant has re-
2 ceived the necessary permits and licenses and land use authorizations,
3 the applicant shall be awarded a use area permit. If the successful
4 applicant does not provide the required proof within 120 days after
5 issuance of the conditional use area permit, the conditional use area
6 permit is void. If a conditional use area permit is voided under this
7 subsection, the board shall offer the use area permit to the next best
8 qualified applicant for the use area.

9 Sec. 08.54.660. TERM AND SUSPENSION OR REVOCATION OF GUIDE-
10 OUTFITTER USE AREA PERMIT; OPERATIONS PLAN. (a) The board shall
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13 partment of Fish and Game, that a longer term will further promote the
14 wildlife conservation and management objectives of the use areas. The
15 term of a use area permit may not in any instance exceed 15 years.

16 (b) The board may after a hearing suspend or revoke a use area
17 permit for

18 (1) violation of the conditions of the use area permit;

19 (2) failure to exercise the privileges conferred by the use
20 area permit for one year;

21 (3) a significant unauthorized deviation, as defined by the
22 board, from an operations plan;

23 (4) fraud in applying for a use area permit or assignment
24 of a use area permit; or

25 (5) other good cause, as defined by the board.

26 (c) The board may suspend or revoke a use area permit upon
27 conviction of the permittee of an unlawful act under AS 08.54.520.

28 (d) A use area permit is revoked automatically upon revocation
29 of the permittee's guide-outfitter license. A use area permit is

1 suspended automatically upon suspension of the permittee's guide-
2 outfitter license.

3 (e) If the license of a guide-outfitter is summarily suspended
4 under AS 08.01.075(c), the use area permits held by the guide-out-
5 fitter are suspended automatically until after the final disposition
6 of the disciplinary proceeding by the board.

7 (f) A hearing to suspend or revoke a use area permit may be
8 combined with a disciplinary proceeding under AS 08.01.075 or AS 08.-
9 54.500 involving the use area permittee.

10 (g) A use area permit may be revoked or the terms of the use
11 area permit or an operations plan may be altered by the board for
12 wildlife conservation and management considerations.

13 (h) A use area permittee shall submit an amended operations plan
14 if the permittee intends to vary the permittee's guide-outfitting
15 operation from that stated in the plan. An amended operations plan is
16 not effective until approved by the board. A permittee may not con-
17 duct a guide-outfitting operation outside of the terms of an approved
18 operations plan.

19 Sec. 08.54.670. ASSIGNMENT OF GUIDE-OUTFITTER USE AREA PERMIT.

20 (a) Except as provided in this section, a use area permit may not be
21 sold, leased, or otherwise assigned.

22 (b) A use area permit may be assigned by the board under regu-
23 lations of the board if the assignment is

24 (1) consistent with the purposes of AS 08.54.610 - 08.-
25 54.690;

26 (2) not for consideration to the former permittee;

27 (3) to a guide-outfitter qualified to receive the use area
28 permit; and

29 (4) due to the death or disability of the former permittee

1 or for other good cause, as defined by the board.

2 (c) An assigned use area permit is valid only for the period for
3 which the use area permit was originally issued.

4 (d) If proceedings in which a guide-outfitter license may be
5 revoked or suspended under this chapter are pending against a guide-
6 outfitter, the guide-outfitter's use area permits may not be assigned
7 unless allowed for good cause by the board. During the period for
8 which a guide-outfitter's license is suspended under this chapter, use
9 area permits held by the guide-outfitter may not be assigned.

10 (e) If proceedings in which a guide-outfitter use area permit
11 may be revoked or suspended under AS 08.54.660 are pending against a
12 guide-outfitter, the use area permits that are the subject of the
13 pending proceedings may not be assigned. During the period for which
14 a use area permit is suspended under AS 08.54.660, the use area permit
15 may not be assigned.

16 Sec. 08.54.680. INFORMATION ON GUIDE-OUTFITTER USE AREAS AND
17 COMMERCIAL USE PERMITTEES. (a) The board shall maintain and publish
18 on a regular basis a comprehensive list of all unawarded guide-out-
19 fitter use areas that are open to application for use by qualified
20 guide-outfitters.

21 (b) The board shall maintain a centralized information center
22 where information on guide-outfitter use areas and all commercial use
23 permittees can be readily obtained by guide-outfitters, government
24 agencies, and the public.

25 Sec. 08.54.690. DEFINITIONS. In AS 08.54.610 - 08.54.690

26 (1) "joint use" means the utilization of a guide-outfitter
27 use area by more than one use area permittee;

28 (2) "sole use" means the utilization of a guide-outfitter
29 use area by one use area permittee.

1 or for other good cause, as defined by the board.

2 (c) An assigned use area permit is valid only for the period for
3 which the use area permit was originally issued.

4 (d) If proceedings in which a guide-outfitter license may be
5 revoked or suspended under this chapter are pending against a guide-
6 outfitter, the guide-outfitter's use area permits may not be assigned
7 unless allowed for good cause by the board. During the period for
8 which a guide-outfitter's license is suspended under this chapter, use
9 area permits held by the guide-outfitter may not be assigned.

10 (e) If proceedings in which a guide-outfitter use area permit
11 may be revoked or suspended under AS 08.54.660 are pending against a
12 guide-outfitter, the use area permits that are the subject of the
13 pending proceedings may not be assigned. During the period for which
14 a use area permit is suspended under AS 08.54.660, the use area permit
15 may not be assigned.

16 Sec. 08.54.680. INFORMATION ON GUIDE-OUTFITTER USE AREAS AND
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18 on a regular basis a comprehensive list of all unawarded guide-out-
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20 guide-outfitters.

21 (b) The board shall maintain a centralized information center
22 where information on guide-outfitter use areas and all commercial use
23 permittees can be readily obtained by guide-outfitters, government
24 agencies, and the public.

25 Sec. 08.54.690. DEFINITIONS. In AS 08.54.610 - 08.54.690

26 (1) "joint use" means the utilization of a guide-outfitter
27 use area by more than one use area permittee;

28 (2) "sole use" means the utilization of a guide-outfitter
29 use area by one use area permittee.

1 * Sec. 3. AS 08.54.310(a) is amended by adding new paragraphs to read:

2 (11) certify guide-outfitters to conduct guide-outfitting
3 activities within a game management unit;

4 (12) establish by regulation a system of guide-outfitter use
5 areas for allocating access to big game hunting opportunities among
6 guide-outfitters.

7 * Sec. 4. AS 08.54.350(a) is amended to read:

8 (a) A natural person is entitled to a guide-outfitter license if
9 the person

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

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

15 (3) is familiar with the terrain and transportation prob-
16 lems in the game management unit for which the license is requested;

17 (4) has passed the qualification examinations prepared and
18 administered by the board;

19 (5) has demonstrated to the board sufficient standards of
20 competence and ethical conduct and has not been convicted of a state
21 or federal hunting or guide-outfitting statute or regulation within
22 the last five years for which the person was fined more than \$500 or
23 imprisoned for more than five days;

24 (6) has legally hunted in the state for part of each of any
25 five years in a manner directly contributing to the person's experi-
26 ence and competency as a guide-outfitter;

27 (7) has been licensed as and performed the services of a
28 class-A assistant guide-outfitter or assistant guide-outfitter in the
29 state for a part of each of three years, or has guide-outfitted in the

1 state for a part of each of three years under a marine mammal guide-
2 outfitter license issued under AS 08.54.360;

3 (8) has demonstrated a current knowledge of fishing, hunt-
4 ing, and guide-outfitting regulations;

5 (9) is capable of performing the essential duties associ-
6 ated with guide-outfitting;

7 (10) has been favorably recommended in writing by six big
8 game hunters, two for each year of the person's most recent three
9 years as a class-A assistant guide-outfitter or assistant guide-
10 outfitter, when the person has guide-outfitted or assisted in guide-
11 outfitting as a class-A assistant guide-outfitter or assistant guide-
12 outfitter, whose recommendations have been solicited by the board from
13 a list provided by the applicant;

14 (11) possesses a business license to provide guide-outfit-
15 ting services; and

16 (12) has paid the license fee and has applied for a commer-
17 cial use permit [FEE].

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

19 Sec. 08.54.355. GAME MANAGEMENT UNIT CERTIFICATION. (a) The
20 board shall certify guide-outfitters licensed under AS 08.54.350 to
21 guide-outfit hunts within a game management unit.

22 (b) A guide-outfitter may not guide-outfit hunts in a game
23 management unit unless the guide-outfitter is certified by the board
24 to guide-outfit hunts in the game management unit.

25 (c) The board shall allow a guide-outfitter to prequalify for
26 certification for each game management unit in which the guide-out-
27 fitter is competent to guide-outfit hunts. The board shall allow a
28 guide-outfitter to transfer a certification between game management
29 units.

1 state for a part of each of three years under a marine mammal guide-
2 outfitter license issued under AS 08.54.360;

3 (8) has demonstrated a current knowledge of fishing, hunt-
4 ing, and guide-outfitting regulations;

5 (9) is capable of performing the essential duties associ-
6 ated with guide-outfitting;

7 (10) has been favorably recommended in writing by six big
8 game hunters, two for each year of the person's most recent three
9 years as a class-A assistant guide-outfitter or assistant guide-
10 outfitter, when the person has guide-outfitted or assisted in guide-
11 outfitting as a class-A assistant guide-outfitter or assistant guide-
12 outfitter, whose recommendations have been solicited by the board from
13 a list provided by the applicant;

14 (11) possesses a business license to provide guide-outfit-
15 ting services; and

16 (12) has paid the license fee and has applied for a commer-
17 cial use permit [FEE].

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20 board shall certify guide-outfitters licensed under AS 08.54.350 to
21 guide-outfit hunts within a game management unit.

22 (b) A guide-outfitter may not guide-outfit hunts in a game
23 management unit unless the guide-outfitter is certified by the board
24 to guide-outfit hunts in the game management unit.

25 (c) The board shall allow a guide-outfitter to prequalify for
26 certification for each game management unit in which the guide-out-
27 fitter is competent to guide-outfit hunts. The board shall allow a
28 guide-outfitter to transfer a certification between game management
29 units.

1 * Sec. 6. AS 08.54.360(a) is amended to read:
2 (a) The board may issue a marine mammal guide-outfitter license
3 to a natural person who applies to guide-outfit a hunt for a specific
4 species of marine mammal in a specifically designated area if the
5 person
6 (1) is 21 years of age or older;
7 (2) has, for at least 10 years, resided and hunted in the
8 area of the state in which the applicant is to guide-outfit;
9 (3) is able to perform the duties of a marine mammal guide-
10 outfitter;
11 (4) has demonstrated knowledge of the following areas to an
12 extent and degree satisfactory to the board:
13 (A) current fish and game laws and regulations;
14 (B) relevant characteristics of the specific species
15 to be hunted;
16 (C) field preparation of trophies;
17 (D) care of game meat;
18 (E) use of guide-outfitting gear;
19 (F) firearm safety;
20 (G) practical first aid; and
21 (H) booking and contracting hunts;
22 (5) has not been convicted of violating a state or federal
23 game or guide-outfitting statute or regulation during the previous
24 five years for which the person was fined more than \$500 or imprisoned
25 for more than five days;
26 (6) possesses a business license to provide guide-outfit-
27 ting services; and
28 (7) has paid the license fee and has applied for a commer-
29 cial use permit [FEE].

1 * Sec. 7. AS 08.54.370(a) is amended to read:

2 (a) An applicant for renewal of a guide-outfitter license or a
3 marine mammal guide-outfitter license shall submit with the applica-
4 tion for renewal

5 (1) the hunt record required under AS 08.54.550 for the
6 period covered by the current license;

7 (2) the license fee for the next licensing period; [AND]

8 (3) the commercial use permit fee for the [NEXT LICENSING]
9 period covered by the current permit; and

10 (4) an amended guide-outfitter use area operations plan, if
11 appropriate.

12 * Sec. 8. AS 08.54.400(a) is amended to read:

13 (a) A person is entitled to a transporter license if the person

14 (1) applies on a form provided by the department;

15 (2) pays the license fee;

16 (3) applies for a [PAYS THE] commercial use permit, [REDACTED]

17 [REDACTED]
18 (4) provides proof of

19 (A) an air taxi/commercial operator certificate issued
20 by the Federal Aviation Administration under 14 C.F.R. Part 135,
21 if the person provides air transportation services to big game
22 hunters;

23 (B) licensure by the Coast Guard to carry passengers
24 for hire, if the person provides water transportation services to
25 big game hunters and if licensure is required by the Coast Guard;
26 and

27 (5) has a business license to transport big game hunters.

28 * Sec. 9. AS 08.54.400(c) is amended to read:

29 (c) An applicant for renewal of a transporter license shall

1 * Sec. 7. AS 08.54.370(a) is amended to read:

2 (a) An applicant for renewal of a guide-outfitter license or a
3 marine mammal guide-outfitter license shall submit with the applica-
4 tion for renewal

5 (1) the hunt record required under AS 08.54.550 for the
6 period covered by the current license;

7 (2) the license fee for the next licensing period; [AND]

8 (3) the commercial use permit fee for the [NEXT LICENSING]
9 period covered by the current permit; and


10 (4) an amended guide-outfitter use area operations plan, if
11 appropriate.


12 * Sec. 8. AS 08.54.400(a) is amended to read:

13 (a) A person is entitled to a transporter license if the person

14 (1) applies on a form provided by the department;

15 (2) pays the license fee;

16 (3) applies for a [PAYS THE] commercial use permit, 

17 
18 (4) provides proof of

19 (A) an air taxi/commercial operator certificate issued
20 by the Federal Aviation Administration under 14 C.F.R. Part 135,
21 if the person provides air transportation services to big game
22 hunters;

23 (B) licensure by the Coast Guard to carry passengers
24 for hire, if the person provides water transportation services to
25 big game hunters and if licensure is required by the Coast Guard;
26 and

27 (5) has a business license to transport big game hunters.

28 * Sec. 9. AS 08.54.400(c) is amended to read:

29 (c) An applicant for renewal of a transporter license shall

1 submit with the application for renewal

2 (1) an activity report on a form provided by the department
3 for the period covered by the current license; an activity report
4 shall contain information required by the board by regulation;

5 (2) the license fee for the next licensing period;

6 (3) the commercial use permit fee for the [NEXT LICENSING]
7 period covered by the current permit, [REDACTED]

8 [REDACTED] and

9 (4) proof of

10 (A) an air taxi/commercial operator certificate issued
11 by the Federal Aviation Administration under 14 C.F.R. Part 135,
12 if the applicant provides air transportation services to big game
13 hunters;

14 (B) licensure by the Coast Guard to carry passengers
15 for hire, if the applicant provides water transportation services
16 to big game hunters and if licensure is required by the Coast
17 Guard.

18 * Sec. 10. AS 08.54.460(a) is amended to read:

19 (a) A person, other than a guide-outfitter, marine mammal guide-
20 outfitter, or a transporter, who provides other big game commercial
21 services for compensation shall register with the board on a form
22 provided by the board and shall obtain a commercial use permit and pay
23 the annual commercial use permit fee set by the department in consul-
24 tation with the board [UNDER AS 08.54.470]. In this section, "other
25 big game commercial services" includes provision of accommodations in
26 the field at a permanent lodge, house, or cabin owned by the commer-
27 cial use permit holder, hunt broker services, gear rental services,
28 photographic or videographic services, and services as defined by the
29 board by regulation.

1 * Sec. 11. AS 08.54.470(a) is amended to read:

2 (a) A person who is licensed under this chapter as a guide-
3 outfitter, marine mammal guide-outfitter, or transporter shall obtain
4 an annual commercial use permit. [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] annual commercial use
10 permit fee [REDACTED]

11 * Sec. 12. AS 08.54.470(b) is repealed and reenacted to read:

12 (b) The commercial use permit fee shall be set by the depart-
13 ment, in consultation with the board,

14 (1) for transporters on the basis of a progressive fee in
15 proportion to the number of big game hunters transported by the trans-
16 porter during the period for which the permit was issued;

17 (2) for guide-outfitters and marine mammal guide-outfit-
18 ters, at not less than the following amounts based on the number of
19 clients guide-outfitted by the guide-outfitter or marine mammal guide-
20 outfitter during the period for which the permit was issued:

21	0 - 5 clients	\$ 250
22	6 - 10 clients	500
23	11 - 15 clients	750
24	16 - 20 clients	1,000
25	21 - 25 clients	1,500
26	26 - 30 clients	2,000
27	31 or more clients	2,500.

28 * Sec. 13. AS 08.54.470(c) is amended to read:

29 (c) A guide-outfitter, marine mammal guide-outfitter, and

1 * Sec. 11. AS 08.54.470(a) is amended to read:

2 (a) A person who is licensed under this chapter as a guide-
3 outfitter, marine mammal guide-outfitter, or transporter shall obtain
4 an annual commercial use permit. [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] annual commercial use
10 permit fee \$ [REDACTED]

11 * Sec. 12. AS 08.54.470(b) is repealed and reenacted to read:

12 (b) The commercial use permit fee shall be set by the depart-
13 ment, in consultation with the board,

14 (1) for transporters on the basis of a progressive fee in
15 proportion to the number of big game hunters transported by the trans-
16 porter during the period for which the permit was issued;

17 (2) for guide-outfitters and marine mammal guide-outfit-
18 ters, at not less than the following amounts based on the number of
19 clients guide-outfitted by the guide-outfitter or marine mammal guide-
20 outfitter during the period for which the permit was issued:

21	0 - 5 clients	\$ 250
22	6 - 10 clients	500
23	11 - 15 clients	750
24	16 - 20 clients	1,000
25	21 - 25 clients	1,500
26	26 - 30 clients	2,000
27	31 or more clients	2,500.

28 * Sec. 13. AS 08.54.470(c) is amended to read:

29 (c) A guide-outfitter, marine mammal guide-outfitter, and

1 transporter shall pay the commercial use permit fee at the time of
2 application for [ISSUANCE OR] renewal of a guide-outfitter license,
3 marine mammal guide-outfitter license, or transporter license. If the
4 guide-outfitter, marine mammal guide-outfitter, or transporter does
5 not apply for renewal of the guide-outfitter license, marine mammal
6 guide-outfitter license, or transporter license, the commercial use
7 permit fee shall be paid within 30 days after the end of the annual
8 period for which the commercial use permit was issued.

9 * Sec. 14. AS 08.54.470 is amended by adding a new subsection to read:

10 (e) Notwithstanding (a) of this section and AS 08.54.370, a
11 person who is licensed under this chapter as a guide-outfitter but who
12 is retired from or does not engage in guide-outfitting activities is
13 exempt from requirements to obtain a commercial use permit and to pay
14 the commercial use permit fee. The department shall adopt regulations
15 to implement this subsection.

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

17 Sec. 08.54.560. REPORTS RELATING TO CARRIAGE OF BIG GAME HUNT-
18 ERS. (a) A person who is subject to AS 42.30.200 shall submit to the
19 department by January 31 of each year an activity report relating to
20 the carriage, to, from, or in the field, during the previous year of
21 big game hunters, their equipment, and big game animals harvested by
22 hunters. The report shall be made on a form provided by the depart-
23 ment and must contain information required by the board by regulation.

24 (b) A person who intentionally violates this section is guilty
25 of a class B misdemeanor.

26 * Sec. 16. AS 08.54.590(13) is amended to read:

27 (13) "transportation services" means the carriage of or
28 advertising to carry, for compensation, [OF] big game hunters, their
29 equipment, or big game animals harvested by hunters to, from, or in

1 the field; "transportation services" does not include the carriage by
2 aircraft of big game hunters, their equipment, or big game animals
3 harvested by hunters (A) on nonstop flights between state

4 or federally maintained airports

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8
9 or (B) by an air taxi operator or air
10 carrier

11 for the carriage of big game hunters, their equipment, or big
12 game animals harvested by hunters

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22 * Sec. 17. IDENTIFICATION OF PROPOSED GUIDE-OUTFITTER USE AREAS. (a)

23 The Department of Fish and Game shall propose guide-outfitter use areas for
24 use by the Big Game Commercial Services Board in establishing a resource-
25 based management system for allocating access to big game hunting oppor-
26 tunities among guide-outfitters. The department shall identify proposed
27 guide-outfitter use areas for appropriate regions and areas of the state.
28 The department may set priorities for identifying use areas and may deter-
29 mine the extent and number of use areas to be identified at one time. The

1 the field; "transportation services" does not include the carriage by
2 aircraft of big game hunters, their equipment, or big game animals
3 harvested by hunters (A) on nonstop flights between state, [REDACTED]

4 [REDACTED] or federally maintained airports [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 [REDACTED], or (B) by an air taxi operator or air
10 carrier [REDACTED]
11 for [REDACTED] the carriage of big game hunters, their equipment, or big
12 game animals harvested by hunters, [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED] soliciting big game hunters to be customers [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 * Sec. 17. IDENTIFICATION OF PROPOSED GUIDE-OUTFITTER USE AREAS. (a)

23 The Department of Fish and Game shall propose guide-outfitter use areas for
24 use by the Big Game Commercial Services Board in establishing a resource-
25 based management system for allocating access to big game hunting oppor-
26 tunities among guide-outfitters. The department shall identify proposed
27 guide-outfitter use areas for appropriate regions and areas of the state.
28 The department may set priorities for identifying use areas and may deter-
29 mine the extent and number of use areas to be identified at one time. The

1 department shall complete the identification of proposed use areas within
2 two years after the close of the first public comment period prescribed
3 under (e) of this section. The department shall complete the identifica-
4 tion of proposed use areas for a significant portion of the state within
5 nine months after the close of the first public comment period prescribed
6 under (e) of this section.

7 (b) The Big Game Commercial Services Board may recommend to the
8 department those areas of the state that should receive priority in identi-
9 fying use areas.

10 (c) The department shall publish a public notice that it is accepting
11 public comment for identification of areas as proposed guide-outfitter use
12 areas. The department shall accept public comment for 60 days after the
13 notice is first published.

14 (d) The department shall propose use areas in light of the following
15 considerations:

16 (1) wildlife management concerns, including abundance and diver-
17 sity of wildlife, historical harvest of wildlife from the area, and exist-
18 ing administrative boundaries established for wildlife management purposes;

19 (2) wildlife law enforcement concerns;

20 (3) public comment received under (c) of this section;

21 (4) land ownership in the area;

22 (5) administrative restrictions;

23 (6) existence of boundaries that can be readily identified in
24 the field;

25 (7) accessibility of the area and other transportation consid-
26 erations;

27 (8) existence of complementary and noncomplementary land uses
28 within the area;

29 (9) existing facilities within the area; and

1 (10) other considerations relevant to the purposes of this sec-
2 tion.

3 (e) The department shall provide maps or descriptions to the public
4 of the use areas proposed under (d) of this section and shall solicit
5 public comment on the proposed use areas. The public shall have 45 days
6 after the maps or descriptions are distributed to comment on the use areas
7 proposed by the department. At the close of the comment period, the de-
8 partment shall review the proposed use areas in light of the public comment
9 received and shall then recommend boundaries for the proposed use areas.
10 The department shall transmit its boundary recommendations to the Big Game
11 Commercial Services Board as the recommendations are made final.

12 (f) The actions of the department under this section are exempt from
13 the Administrative Procedure Act (AS 44.62).

14 (g) In this section

15 (1) "department" means the Department of Fish and Game;

16 (2) "public" includes a natural person, corporation, associa-
17 tion, organization, society, company, partnership, or state, federal, or
18 local government agency.

19 * Sec. 18. PRELIMINARY DETERMINATION OF ELIGIBILITY FOR GUIDE-OUTFITTER
20 USE AREA PERMIT. (a) In order to facilitate and expedite the process for
21 issuing guide-outfitter use area permits during the first five years that
22 offerings of guide-outfitter use areas are made under AS 08.54.610 - 08.-
23 54.690, enacted by sec. 2 of this Act, the Big Game Commercial Services
24 Board shall make preliminary determinations of the eligibility of a guide-
25 outfitter to receive use area permits.

26 (b) A guide-outfitter may apply, at times set by the board, for a
27 preliminary determination of eligibility for a use area permit for each
28 game management unit in which the guide-outfitter is certified or prequal-
29 ified for certification to guide-outfit hunts under AS 08.54.355, enacted

1 (10) other considerations relevant to the purposes of this sec-
2 tion.

3 (e) The department shall provide maps or descriptions to the public
4 of the use areas proposed under (d) of this section and shall solicit
5 public comment on the proposed use areas. The public shall have 45 days
6 after the maps or descriptions are distributed to comment on the use areas
7 proposed by the department. At the close of the comment period, the de-
8 partment shall review the proposed use areas in light of the public comment
9 received and shall then recommend boundaries for the proposed use areas.
10 The department shall transmit its boundary recommendations to the Big Game
11 Commercial Services Board as the recommendations are made final.

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13 the Administrative Procedure Act (AS 44.62).

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24 Board shall make preliminary determinations of the eligibility of a guide-
25 outfitter to receive use area permits.

26 (b) A guide-outfitter may apply, at times set by the board, for a
27 preliminary determination of eligibility for a use area permit for each
28 game management unit in which the guide-outfitter is certified or prequali-
29 fied for certification to guide-outfit hunts under AS 08.54.355, enacted

1 by sec. 5 of this Act.

2 (c) A guide-outfitter is qualified for a preliminary determination of
3 eligibility to receive a use area permit if the board finds that the guide-
4 outfitter satisfies the criteria of AS 08.54.650(b), enacted by sec. 2 of
5 this Act, that can be satisfied without reference to the characteristics of
6 a specific use area.

7 (d) A preliminary determination of eligibility to receive a use area
8 permit does not vest a right in the guide-outfitter to receive a use area
9 permit when use areas are offered under AS 08.54.650, enacted by sec. 2 of
10 this Act.

11 * Sec. 19. During the first five years that offerings of use areas are
12 made under AS 08.54.610 - 08.54.690, enacted by sec. 2 of this Act, the Big
13 Game Commercial Services Board shall offer all guide-outfitter use areas.

14 * Sec. 20. The operation of AS 08.54.440 is suspended until January 1,
15 1991.

16 * Sec. 21. TRANSITION; COMMERCIAL USE PERMIT FEE FOR 1991 AND SUBSE-
17 QUENT YEARS. AS 08.54.350(a), as amended by sec. 4 of this Act, AS 08.54.-
18 360(a), as amended by sec. 6 of this Act, AS 08.54.370(a), as amended by
19 sec. 7 of this Act, AS 08.54.400(a), as amended by sec. 8 of this Act,
20 AS 08.54.400(c), as amended by sec. 9 of this Act, AS 08.54.470(a), as
21 amended by sec. 11 of this Act, AS 08.54.470(b), as amended by sec. 12 of
22 this Act, and AS 08.54.470(c), as amended by sec. 13 of this Act apply to
23 initial applications for and renewals of guide-outfitter licenses, marine
24 mammal guide-outfitter licenses, and transporter licenses for 1991 and
25 subsequent years and to payment of commercial use permit fees for 1991 and
26 subsequent years. Applicants for guide-outfitter licenses, marine mammal
27 guide-outfitter licenses, and transporter licenses for 1990 or for renewal
28 of these licenses for 1990 shall pay the commercial use permit fee in
29 accordance with AS 08.54 as it existed on the day before the effective date

1 of this section.

or air carrier, whose operations are not included within the definition of "transportation services" in AS 08.54.590(13), as amended by sec. 16 of this Act, but whose publicity brochures or other print media produced before April 1, 1990, contain advertisements for big game commercial services that remain in circulation or use after April 1, 1990, will not be

This section was technically revised in Senate Rules

9 * Sec. 23. SEVERABILITY. If a provision of this Act or the application
10 of this Act to a person or circumstance is held invalid, the remainder of
11 this Act and the application of this Act to other persons or circumstances
12 are not affected by the invalidity.

13 * Sec. 24. Section 20 of this Act is retroactive to May 12, 1989.

14 * Sec. 25. AS 08.54.310(b)(1) is repealed.

15 * Sec. 26. Sections 20 and 24 of this Act take effect immediately under
16 AS 01.10.070(c).

1 of this section.

2

3 or air carrier, whose operations are not included within the definition of
"transportation services" in AS 08.54.590(13), as amended by sec. 16 of
this Act, but whose publicity brochures or other print media produced
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9 * Sec. 23. SEVERABILITY. If a provision of this Act or the application
10 of this Act to a person or circumstance is held invalid, the remainder of
11 this Act and the application of this Act to other persons or circumstances
12 are not affected by the invalidity.

13 * Sec. 24. Section 20 of this Act is retroactive to May 12, 1989.

14 * Sec. 25. AS 08.54.310(b)(1) is repealed.

15 * Sec. 26. Sections 20 and 24 of this Act take effect immediately under
16 AS 01.10.070(c).

APRIL 24, 1990

FLOOR COMMENTS: SB 422 Guide-Outfitter Use Areas

Legislative intent was followed closely in the development of the task force recommendations.

In addition to the Legislative intent, the task force was required to follow several guidelines directly linked to the decision of the Alaska Supreme Court in its Owsichuk decision.

- * - (1) COMMERCIAL OPPORTUNITIES TO USE WILDLIFE RESOURCES
MUST BE BASED UPON WILDLIFE MANAGEMENT OBJECTIVES.
- * - (2) COMMERCIAL GUIDE-OUTFITTER ACCESS RIGHTS MUST BE OF
LIMITED DURATION.
- * - (3) THERE MUST BE EQUAL OPPORTUNITY OR FAIR TREATMENT FOR
ALL GUIDE-OUTFITTERS DURING THE PROCESS OF ASSIGNMENT
OR REASSIGNMENT OF ACCESS RIGHTS.
- * - (4) TRANSFER OR ASSIGNMENT OF USE AREAS MUST NOT RESULT IN
PROFIT TO THE INDIVIDUAL GUIDE-OUTFITTERS. (NO
PROPERTY RIGHTS ACCRUE WITH THE ASSIGNMENT OF A USE
AREA.)
- * - (5) THERE MUST BE PROVISION FOR COMPENSATION TO THE STATE
FOR THE COMMERCIAL USE OF THE RESOURCE.

AMENDMENT

OFFERED TO : CSSB 422 (Finances)

* Sec. 22. TRANSITION; AIR CARRIER ADVERTISING.

last line, after "big game commercial services" :

Insert "until December 31, 1990."

So that this section now reads:

"An air taxi operator or air carrier whose operations do not fall within the definition of transportation services contained in Sec. 16 of this Act but whose publicity brochures or other print media produced prior to April 1, 1990 contain advertisements for big game commercial services that remain in circulation or use after April 1, 1990 will not be considered as advertising big game commercial services until/December 31, 1990."

after
~~must~~ must have lic. if advert. after the date

4/18/90

AMENDMENT

OFFERED TO CSSB 422 (Finances)

* Sec. 11. AS 08.54.470(a)

OPTION 1

Delete from this subsection "However, a transporter who provides only air transportation services and who does not charge more than the usual tariff or charter rate for the carriage of big game hunters, their equipment, or big game animals harvested by hunters is exempt from the requirement to obtain a commercial use permit or to pay the commercial use permit fee."

So that this subsection now reads:

"(a) A person who is licensed under this chapter as a guide-outfitter, marine mammal guide-outfitter, or transporter shall obtain an annual commercial use permit and pay an annual commercial use permit fee as set out in this section."

OPTION 2

After the word "transporter", 1st line,
Insert "who does not advertise and".

4/18/90

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 31, 1990

SUBJECT: Sectional Summary of SB 422; An Act relating to guide-outfitter use area permits, the Big Game Commercial Services Board, and guide-outfitters, transporters, and providers of other big game commercial services

TO: Senator Jan Faiks

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is a sectional summary of SB 422.

A sectional summary or analysis of a bill is not an authoritative interpretation the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the findings of the Legislature and the purpose of the bill.

Section 2 of the bill amends AS 08.54 by adding new sections relating to guide-outfitter use areas and use area permits.

Sec. 08.54.610 authorizes the Big Game Commercial Services Board to establish guide-outfitter use areas based on recommendations made by the Department of Fish and Game.

The board may amend the boundary of an established use area if the Department of Fish and Game concurs in the change and affected guide-outfitters are given an opportunity to comment on the proposed boundary.

Sec. 08.54.620 provides that the board shall offer available use areas to qualified guide-outfitters each year. The board may request recommendations from the public for use areas to be offered.

SECTIONAL

The board shall determine whether use areas will be offered for sole or joint use by guide-outfitters before the offering is made. Use areas for which permits have expired, been relinquished by the permittee, or revoked by the board may be offered at the next offering of use areas.

The notice of offerings must include specific information regarding each use area.

Sec. 08.54.630 establishes the privileges conferred by use area permits and registration permits and the duties of guide-outfitters under use area permits and registration permits.

A use area permit or registration permit authorizes a guide-outfitter to guide-outfit hunts in the use area for those species listed in the permit. A use area permit or registration permit may limit the number of clients that a guide-outfitter may guide-outfit in the use area.

Use area permits may authorize joint or sole use of the use area. Guide-outfitted hunts for all big game species within a use area must be authorized under joint use area permits, when all use area permits for the use area are considered together.

Use areas for which use area permits have not been awarded are open to use by qualified guide-outfitters who obtain registration permits. Registration permits are valid for one calendar year.

A guide-outfitter may not guide-outfit hunts in a use area unless the guide-outfitter has a use area permit or registration permit authorizing guide-outfitted hunts in the use area.

A guide-outfitter shall physically participate in field operations conducted under the authority of a use area permit or registration permit.

Sec. 08.54.640 establishes eligibility and application procedures for guide-outfitter use area permits. The Department of Commerce and Economic Development shall set the application fee for a use area permit.

Sec. 08.54.650 sets out the procedures for evaluating applications and awarding guide-outfitter use area permits. The

board shall evaluate applications for use area permits under criteria listed in the bill.

The board shall determine which applicants are qualified to receive a use area permit and shall award the available use area permits to the best qualified guide-outfitters. The board may not award a use area permit to an applicant who does not satisfy the minimum requirements.

The board shall allow a successful applicant for a use area permit 120 days to obtain any additional permits, licenses, and land use authorizations that are necessary to guide-outfit hunts in the use area. If the successful applicant cannot obtain the permits, licenses, and land use authorizations within 120 days, the successful applicant loses the use area permit and the board shall award the use area permit to the next best applicant.

Sec. 08.54.660 sets out the provisions relating to the term of use area permits, suspension and revocation of use area permits, and operations plans.

The term of a guide-outfitter use area permit is 10 years, unless the board and the Department of Fish and Game agree that a longer term would further promote wildlife conservation and management. The maximum possible term of a use area permit is 15 years.

The board may suspend or revoke a use area permit in specified situations. Use area permits are automatically suspended or revoked when specified events occur. Hearings to suspend or revoke a use area permit may be combined with other disciplinary proceedings involving the permittee.

A use area permit may be revoked and the terms of a use area permit or operations plan may be altered by the board for wildlife management and conservation considerations.

A guide-outfitter may not conduct guide-outfitted hunts except as provided under an operations plan approved by the board. The board must approve changes to the operations plan before the guide-outfitter may change the manner in which the guide-outfitting operation is conducted.

Sec. 08.54.670 provides for the assignment of use area permits by the board.

The board may assign a use area permit if certain conditions are met.

The sale of guide-outfitter facilities and equipment between the former use area permittee and the assignee of the permit is subject to review by the board and may cause the assignment of the permit to be voided.

An assigned use area permit is valid only for the period for which the use area permit was originally issued.

Use area permits may not be assigned if the use area permit or the permittee's guide-outfitter license has been suspended or if proceedings in which the permittee's guide-outfitter license or use area permit may be suspended are pending against the permittee.

Sec. 08.54.680 provides that the board shall maintain and publish a list of unawarded use areas that are potentially available for use by qualified guide-outfitters.

The board shall maintain an information center where information on use areas and guide-outfitters, transporters, and providers of other big game commercial services can be obtained.

Sec. 08.54.690 sets out the definitions of "joint use" and "sole use".

Section 3 of the bill amends AS 08.54.310(a) by enlarging the duties of the Big Game Commercial Services Board. The board, in addition to its existing duties, shall establish a procedure for certifying guide-outfitters to guide-outfit hunts within game management units and a system of guide-outfitter use areas to allocate big game hunting opportunities among guide-outfitters.

Section 4 of the bill amends AS 08.54 by adding a new section establishing a procedure for certifying guide-outfitters to guide-outfit hunts within a game management unit. Guide-outfitters must obtain a certification for a specific game management unit before guide-outfitting hunts in that game management unit.

Section 5 of the bill amends AS 08.54.370(a) by requiring guide outfitters and marine mammal guide-outfitters to submit additional information and fees at the time of applying

for renewal of their licenses. A guide-outfitter shall submit an amended operations plan if the guide-outfitter intends to change the nature of the guide-outfitter's guide-outfitting operation during the next year. A guide-outfitter must also pay the wildlife conservation fee that is due for the past year.

Section 6 of the bill amends AS 08.54 by adding a new section establishing the wildlife conservation fee. Guide-outfitters and transporters are required to pay the wildlife conservation fee. The amount of the fee is \$25 for each big game animal, except deer, that was taken by a client of a guide-outfitter or that was taken by a customer of a transporter on a non-guide-outfitted hunt and transported by the transporter. The fee for each deer is \$5.

The funds generated by this fee may be used by the legislature to support game management and game law enforcement programs.

Section 7 of the bill amends AS 08.54.590(13). The definition of "transportation services" is amended to include air taxis and air carriers who advertise hunting services to the public regardless of whether the provision of hunting services is only an incidental portion of their business.

Section 8 of the bill sets out a detailed process for the identification of proposed guide-outfitter use areas by the Department of Fish and Game. The department shall submit its proposals to the Big Game Commercial Services Board. The process followed by the department is exempt from the Administrative Procedure Act.

Section 9 of the bill provides for preliminary determination of eligibility for guide-outfitter use area permits. During the interim between the passage of this bill and the full implementation of the guide-outfitter use area program, guide-outfitters may apply for a preliminary determination of eligibility to receive a use area permit in those game management units in which the guide-outfitter is certified to guide-outfit hunts. A preliminary determination of eligibility for a use area permit does not guarantee that the guide-outfitter will receive a use area permit when the permits are actually awarded.

Section 10 of the bill requires the Big Game Commercial Services Board to offer all use areas created by the board dur-

Senator Jan Faiks
Page 6
January 31, 1990

ing the first five years that offerings of use areas are made.

Section 11 of the bill is a severability clause.

Section 12 of the bill repeals AS 08.54.310(b)(1) which is the power of the Big Game Commercial Services Board to establish a resource-based management system for allocating access to big game hunting opportunities among guide-out-fitters. This provision has been moved from a power of the board to a duty of the board by sec. 3 of the bill.

GU:pl
WKP1/047

April 24, 1990

FLOOR COMMENTS: SB 422 Guide-Outfitter Use Areas

INTRODUCTION-BACKGROUND

SB 422 was developed at the request of the Legislature and is the culmination of many months of effort by the Legislative Task Force on Guiding and Game.

Based upon legislative directives, the 15 member task force sought to develop a resource-based management system for the allocation of big game hunting opportunities among guide-outfitters. The need for a new industry management system resulted from the Alaska Supreme Court decision in Owsichek v. Alaska. The court's Owsichek decision found that the previously used exclusive guide area system was unconstitutional.

BACKGROUNDER

The task force goal was to provide a recommendation to the Legislature that would withstand constitutional challenge. With that and the limited time available in mind, the panel sought counsel from two sources. First, the Alaska Attorney General's office because of its obvious experience with Alaska law and its role in the Owsichuk case. Second, the Anchorage law firm of Birch, Horton, Bittner and Cherow because of its extensive experience in a variety of areas including federal and state law, wildlife and recreation matters, licensing and allocation programs and administrative statutes.

Legislative intent was followed closely as the task force worked on developing its recommendation.

Among the many guidelines to which the task force was specifically required to follow were several directly linked to the court decision. Those included (1) no property rights accrue with the assignment or reassignment of a use area; (2) guide-outfitter access rights of limited duration; (3) equal opportunity for all guide-outfitters during assignment or reassignment of access rights; (4) commercial opportunities to use the wildlife resources must be based upon wildlife management objectives; (5) there must be provision for compensation to the state for the commercial use of the resource.

TASK FORCE WORK/PUBLIC HEARINGS

Nine meetings and hearings were held from June through January. Information was presented by almost 100 people during public hearings which were attended by more than 500 people. The panel heard from federal and state land management agencies and native organizations. I also met with and provided a progress report to federal land management directors and staff in Washington, D.C. on November first. I received their offer of support and cooperation.

FINDINGS

The task force found that:

- the guide-outfitting industry should be regulated in a manner that conserves the wildlife resources, is consistent with the common use clause of the constitution and provides economic viability to the industry;

- an area based system is necessary for proper management of the industry to prevent damage to the wildlife resources;

- any proposal that is implemented will be a compromise because of the competing and conflicting interests that must be considered;
- the guide-outfitting and related industries can contribute significantly to the state's tourism industry;
- uncertainty over a management system is causing the industry to lose clients to international competitors and this adversely affects the state revenue picture;
- while anxious for the state to develop and implement a new management system, federal land managers are developing separate contingency plans to manage guide-outfitters who operate on their land in case the state fails to act in a timely manner;
- fees related to commercial use of the wildlife resources must be proportional to the use of the resources while remaining easy to calculate and not a burden to the industry.

TASK FORCE RECOMMENDATIONS:

The task force recommends the following:

(1) Guide-outfitter areas must be established to provide a resource-based management system which benefits the wildlife resource and promotes stability within the industry. The areas should be based upon wildlife management decisions;

(2) Guide-outfitter areas should be offered on a staggered basis over the first 5 years to provide an orderly entry by guide-outfitters into the new system and ensure that areas continue to become available annually for those just coming into the system. All areas of the state would be offered during the first 5 years;

(3) Prior to the initial offering of areas, the Big Game Commercial Services Board should establish a pre-application filing procedure. The procedure would expedite the initial offering of areas and allow a pre-offering determination of the areas most in demand.

(4) Application procedures must be established that are fair and provide sufficient information to allow the Board to determine the most qualified applicant for each area. The application process should include the use of operational plans which should include the number of clients, base camp locations and the big game species to be hunted;

(5) The Big Game Commercial Services Board must adopt procedures which provide equal opportunity to all qualified

applicants. The Board should issue the use area permit to the most qualified applicant. The evaluation process should be objective and use specific criteria including the operational plan, safety record, economic feasibility, experience in the industry, knowledge of the area, record of compliance with fish and game laws and trespass statutes, landowner permission and the necessary licenses and permits;

(6) A conditional use area permit would be available to allow the guide-outfitter 120 days to obtain all necessary permits, licenses and landowner permission. This would not allow guide-outfitting and would expire after 120 days whether or not the necessary elements have been met. This was provided to assist for example, those individuals who, when dealing with federal agencies are required to obtain state permits before the federal permit would be issued.

(7) Unawarded use areas would be available to guide-outfitters certified for the respective areas but on a registration permit basis which would be valid only for one year at a time.

(8) Use Area Permits provide the permittee the privilege to guide-outfit hunts for big game and shall be of limited duration. Terms of each permit may be established by the Board to a maximum of 10 years unless following consultation with the Dept. of Fish and Game, a longer term is warranted to promote wildlife management and conservation. No permit shall

exceed 15 years. Use area permits may be limited in the number of clients and species to be hunted. The Board must confer with ADFG regarding sole or joint use of each area.

(9) A use area permit may be assigned or transferred for good cause and only for within its issued term. Use area permits may not be sold because no property right accrues to the permittee with the issuance of the permit. However, any improvements or facilities may be sold. *** While the task force proposed the sale price be determined by replacement costs to preclude possible collusion and sale of areas, it was determined in committee to be unnecessary because a guide-outfitter has no control over his successor.

(10) The Board may suspend or revoke use area permits for specific causes, following a hearing. These causes include violation of permit terms, non-use, unauthorized deviation from operations plans, and fraud. Permits may be revoked, terms of the permit changed, or the operations plan amended for wildlife conservation and management considerations.

(11) The CS for SB 422 has gone further than the task force which established a wildlife conservation fee to ensure the state receives a fair return from the commercial use of the wildlife resources. A separate wildlife conservation fee has been eliminated in the bill and rolled into the Commercial Use

(12) The task force recommended that transporters who advertise big game hunting services should be required to have a commercial use permit in addition to a transporter's license.

(13) The Board should maintain a centralized information center for information on big game commercial services and guide-outfitter use areas.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Wildlife Conservation	BILL NUMBER SB 422	SPONSOR Rules Committee
SHORT TITLE OF BILL An act relating to guide outfitter use area permits...			
DEPARTMENT POSITION The department supports the provisions of this bill as endorsed in the report of the Legislative Task Force on Guiding and Game dated January 1990.			
PREPARED BY	DATE	COMMISSIONER'S SIGNATURE <i>Thomas J. Kelly</i>	DATE 2/10/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Dept. of Commerce and Economic Dev. Div. of Occupational Licensing Dept. of Public Safety Div. of Fish and Wildlife Protection	CONSTITUENT GROUPS AFFECTED BY BILL Licensed big game guide/outfitters Transporters Providers of other big game commercial services
ORGANIZATIONAL SUPPORT FOR BILL Alaska Professional Hunters Association USF&WS, USFS, and USNPS U.S. Bureau of Land Management	ORGANIZATIONAL OPPOSITION TO BILL Some guide/outfitters and transporters

FISCAL IMPACT. NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The Legislative Task Force on Guiding and Game developed this bill proposing that the state establish a new wildlife resource-based system of allocating access to big game hunting opportunities among guide/outfitters. The proposed permit-based system differs from the previous system in that it: a) is founded on wildlife conservation and management concerns; b) provides specific selection criteria to ensure broad access and equal opportunity among applicants;

Continued on Page 2

ANALYSIS OF BILL/PROGRAM EFFECTS

The Department of Fish and Game (ADF&G) would propose guide/outfitter use areas for the state. These recommendations would be forwarded to the Big Game Commercial Services Board for adoption, and subsequent permitting. ADF&G would base the proposed use areas primarily on wildlife management and enforcement concerns, with additional consideration of public comment, land ownership, administrative boundaries, recognizable field boundary features, access, land uses, and existing facilities. The initial mapping project would be completed during FY 92, with continuing but reduced levels of support to maintain the area boundary maps and to provide statewide wildlife information on a regular basis to the Big Game Commercial Services Board.

The department will need to continue normal biological surveys and analyses of big game as well as harvest data management in order to assess and manage ongoing effects of commercial use on wildlife. The proposed wildlife conservation fee would potentially be available for legislative allocation to ADF&G, Division of Wildlife Conservation to help offset costs of managing big game populations for all uses.

AMENDMENTS PROPOSED

Bill Analysis / Gov's ofc

Legislative Intent Continued:

c) provides annual compensation in the form of wildlife conservation fees to the people of the state, based upon actual use of the wildlife resource; d) limits terms of the authorizations (permits); e) requires contractual terms (operations plans) for commercial use of the state's wildlife resource; f) is based on joint use rather than exclusive use; and g) precludes any "property value" accruing to the permittee for the use of a public resource held in common use.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to Guide
Outfitters Use Area Permits...
Sponsor: Rules Committee
Requestor: _____

Agency Affected: Fish and Game
BRU: Wildlife Conservation
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	67.5	71.7	36.9	36.9	20.1	20.1
TRAVEL	3.0	3.0	1.0	1.0	1.0	1.0
CONTRACTUAL	.5	7.5	1.0	1.0	1.0	1.0
SUPPLIES	1.0	1.5	1.0	1.0	1.0	1.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	72.0	83.7	39.9	39.9	23.1	23.1

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	1	1				
PART-TIME			1	1	1	1
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) No FY 90 impact.
The FY 91 and FY 92 expenditures reflect the development of a computerized mapping and information management system for processing use area data needed in the administration of the guide/outfitter industry.
Continued on Page 2

Prepared by: W. Lewis Pamplin, Jr., Director Phone: 465-4190
Division: Wildlife Conservation Date: 2/9/90

Approved by Commissioner: *W. Lewis Pamplin, Jr.* Date: 2/12/90
Agency: Fish and Game

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Expenditures in FY 93 and FY 94 reflect the role that the division plays in providing the Big Game Commercial Services Board with wildlife resource information required to determine the number of guide/outfitters authorizations in each use area and used in the award process. FY 95 and FY 96 reflect the continuing support role of the division to the Board.

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
	Mos. Cost	Mos. Cost	Mos. Cost	Mos. Cost	Mos. Cost	Mos. Cost
LINE 100 *						
WB III @ \$4.5/mo	11 49.5				3 14.1	3 14.1
@ \$4.7/mo		12 56.4	6 28.2	6 28.2		
AP II @ \$3.3/mo	3 9.9	3 9.9	1 3.3	1 3.3	1 3.3	1 3.3
DPC II @ \$2.7/mo	3 8.1	2 5.4	2 5.4	2 5.4	1 2.7	1 2.7
<u>SUB TOTAL</u>	<u>67.5</u>	<u>71.7</u>	<u>36.9</u>	<u>36.9</u>	<u>20.1</u>	<u>20.1</u>
LINE 200 TRAVEL	3.0	3.0	1.0	1.0	1.0	1.0
LINE 300 CONTRACTUAL SERVICES	.5	7.5	1.0	1.0	1.0	1.0
LINE 400 SUPPLIES	1.0	1.5	1.0	1.0	1.0	1.0
LINE 500 EQUIPMENT	0	0	0	0	0	0
<u>TOTAL</u>	<u>72.0</u>	<u>83.7</u>	<u>39.9</u>	<u>39.9</u>	<u>23.1</u>	<u>23.1</u>

Note: The total for FY 92 is greater than previously projected, and subsequent years totals are lower. This is due to additional mapping work necessitated under the proposed legislation, with less work anticipated after FY 92.

The reduced line 100 costs in FY 95 and FY 96 reflect the fact that by FY 95, the Big Game Commercial Services Board will have already awarded the majority of use areas, and we will begin to assume a "maintenance" role with regard to the system.

* These positions are existing PCNs.

FISCAL NOTE

APR 10 1990

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
Title: An Act relating to guide-outfitter BRU: Occupational Licensing
use area permits; . . .
Sponsor: Senate Rules by Request Components: _____
Requestor: Senate Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	85.3	85.3	85.3	85.3	85.3	85.3
TRAVEL	26.4	26.4	26.4	26.4	26.4	26.4
CONTRACTUAL	8.0	8.0	8.0	8.0	8.0	8.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	17.6	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	139.3	121.7	121.7	121.7	121.7	121.7

CAPITAL	0	0	0	0	0	0
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REVENUE	372.8	372.8*	372.8*	372.8*	372.8*	372.8*
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FUNDING: (Thousands of Dollars)

GENERAL FUND	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
FEDERAL FUNDS						
OTHER (GF/PR)	139.3	121.7	121.7	121.7	121.7	121.7
TOTAL	139.3	121.7	121.7	121.7	121.7	121.7

POSITIONS:

FULL-TIME	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

*Revenues: Of this amount, \$231.8 is raised from the Commercial Use Permit fee and will be separately accounted for by the Department of Administration for use by the Legislature to make appropriations to DF&G and Public Safety. The remainder is licensing fees for use by the DCED to pay for board expenditures related to this bill. (CONTINUED ON ATTACHED)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: 4/9/90

Approved by Commissioner: Larry Mercurieff Date: 4-10-90
Agency: Department of Commerce & Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

6267D-4/040990h

FISCAL NOTE 4-10-90

CONTINUATION OF FISCAL NOTE FOR CSSB 422 (Res)

The bill requires the Big Game Commercial Services Board to establish guide-outfitter use areas throughout the state, to adopt procedures for evaluating qualifications of use area applicants, and to annually offer available use areas to qualified guide outfitters.

In addition, the bill authorizes the board to issue use area permits; monitor and limit the number of clients that may be guide-outfitted in a use area each year; suspend or revoke a use area permit; and publish a comprehensive list of all unawarded guide-outfitter areas. The staff work involved in processing the highly complex operational plans will be submitted for competing use area applications and in adequately preparing for board meetings where use areas will be awarded will require an additional Licensing Examiner position. In addition, keeping track of use areas awarded or unawarded will consume extensive staff time. Finally, coordination with ADF&G staff will also require additional time.

The Investigator position is required to beef up enforcement. If we are to properly manage the commercial industry's use of our big game resource, then the state must adequately enforce the licensing requirements contained in SB 422. To assist the board with the responsibilities mandated in the bill, the fiscal note provides for:

1 Occupational Licensing Examiner I, 12 months, GGU, Range 12A	\$ 35.0
1 Investigator III, 12 months, GGU, Range 18A	<u>50.3</u>
Sub-Total:	\$ 85.3

Travel:

Funding provides two additional meetings annually for the Big Game Commercial Services Board and staff to conduct its business, including review of qualified applicants for issuance of use area permits.

\$ 16.4

This funding will also provide travel for the Investigator III to assist the board in enforcing the use area permit requirements and to conduct rural area education regarding the new big game commercial services statutes and to encourage rural resident participation in the big game commercial services industry.

10.0

Sub-Total: \$ 26.4

Contractual Services:

This funding will cover the expense of public noticing regulations, publishing comprehensive lists of unawarded use areas, postage, and other communications.

\$ 8.0

Supplies:

Provides for daily operating desk top supplies for the two positions.

\$ 2.0

Equipment: (One time expense)

2 - Strata III telephone units and lines	\$1.2
2 - Wang DP/WP Workstations	4.4
2 - Desks, double pedestal	1.6
2 - Chairs, swivel with arms	.8
2 - Chairs, side without arms	.5
2 - Typewriters	1.4
2 - File Cabinets, 5-drawer, legal with lock	1.2
2 - Workstations (modular furniture)	<u>6.5</u>

Sub-Total: \$ 17.6

GRAND TOTAL \$139.3

Revenues

The revenue figure of \$372.8 represents a combination of program receipt revenues generated by guide-outfitter use area application fees and guide-outfitter and transporter commercial use permit fees.

A. Guide-outfitter use area application fees: \$141.0

Guide-outfitter application fees must generate \$141.0 in program receipts to cover the expense of administration of the use area system by the Big Game Commercial Services Board. This figure is reached by estimating 600 guide-outfitter use area applications at \$235.00 per application. Until we know exactly how many use areas the Division of Wildlife Conservation will recommend be established, it is impossible to accurately detail the number of applications that may be filed and the actual application cost to the applicant for a guide-outfitter use area.

B. Guide-outfitter commercial use permit fee: \$156.8

Based on approximately 2,407 guide-outfitter clients in 1989 (using 215 contracting guides), the commercial use permit progressive fee schedule in Section 12 of the bill will generate \$156.8.

C. Transporter commercial use permit fees:

\$ 75.0

Approximately 117 transporters will also pay commercial use permit fees. At this time, we are unable to estimate the exact amount to be collected from transporters since we have no records of the number of big game hunters transported by transporters and because the fees are to be set by the board through regulation. We, therefore, utilize a guesstimate of \$75.0.

Total

\$372.8

The total estimated income from the Commercial Use Permit fee is \$231.8. While the commercial use permit fee will be collected by the Division of Occupational Licensing, it will be separately accounted for and available for disbursement by the Legislature to the Departments of Fish and Game and Public Safety for wildlife management and enforcement.

[REDACTED]

January 1990

ADDITIONAL RECOMMENDATIONS

The Task Force also recommends unanimously that:

- 1. The legislature maintain adequate funding for the Department of Fish and Game's Division of Wildlife Conservation, and the Department of Public Safety's Division of Fish and Wildlife Protection. The success of the proposed management system for guide-outfitting depends heavily upon the ability of these state agencies to gather biological data, monitor wildlife use, and enforce laws and regulations.**
- 2. Increased fiscal support for the Board be approved and provided through the Department of Commerce and Economic Development, Division of Occupational Licensing. The Board's workload will be extremely heavy especially during the first five years of the new program, if the system is to be implemented successfully.**
- 3. Letters should be solicited from the federal land management agencies indicating their support for the provisions of the draft legislation proposing an area-based management system for big game guide-outfitting, and expressing their intention to cooperate with the state in implementing this system.**

While the following recommendations are not unanimously endorsed, it is the consensus of the Task Force that they merit future consideration by the legislature or another task force.

- 1. Immediate attention should be given to further managing transporters who provide unguided hunting services. We are aware that the state must not interfere unnecessarily with air or water commerce; on the other hand, transporters can directly contribute to overharvest in some areas and then readily shift into other areas. Those who provide commercial services for hunting must participate with the big-game guide-outfitting industry in reimbursing the state for commercial use of the public wildlife resource.**

Regulatory action by the new Big Game Commercial Services Board will be necessary, and enabling legislation may be required by the legislature. The legislature may wish to consider establishing another task force to further explore this problem and recommend solutions.

- 2. The Board should consider increasing the commercial use permit fee from that temporarily established in 1989. While we wish to leave to the Board the final decision on what the charge should be, we believe the present fee of \$100 does not sufficiently reimburse the state for the commercial use of the public wildlife resource.**

Arguments Against Requiring Guides to Obtain FAA 135

1. Air transportation is not a primary component in operating a guiding service--offering support facilities and personnel in the field is.
2. The FAA allows individuals to operate under Section 91 under current law.
3. There is absolutely no evidence to indicate that client safety has been jeopardized in the past by guides operating under Section 91.
4. Fishing lodge operators fly far more client hours than hunting guides do. They are able to operate under FAA Section 91.
5. A 135 requirement will force small guides out of business and greatly inhibit new entrants into the guiding industry. This is not consistent with the intent of the Task Force bill.
6. 1989 Task Force on Guiding Survey indicated the majority of AACA (Alaska Air Carriers Association) members and non-AACA operators felt that a 135 requirement for guides:
 - a. no significant effect on their business
 - b. no positive effect on the wildlife resource.
7. FAA does not have the administrative capabilities to regulate and enforce an additional 400+ 135-operators in the State.
8. The issue of a 135 requirement for guides is in no way connected to transporters being required to obtain a Commercial Use License and pay a Commercial Use fee that benefits wildlife management.

DRAFT

Table 2. Responses to air taxi questionnaire

AACA members.....	30
Not AACA members.....	31
No response to question.....	1
Total.....	62

Effect on Business

AACA members responses

More business.....	9
Less business.....	5
Little effect on business.....	11
No response.....	0
Other responses.....	5

Not AACA members

More business.....	8
Less business.....	11
Little effect on business.....	10
No response.....	1
Other responses.....	1

Effect on wildlife

AACA members responses

Beneficial.....	8
Detrimental.....	2
No significant effect.....	13
No response.....	0
Other responses.....	2

Not AACA members

Beneficial.....	4
Detrimental.....	9
No significant effect.....	19
No response.....	1
Other responses.....	0

Respondent who did not indicate AACA relationship

Effect on business = more
Effect on wildlife = beneficial

More.....	18
Less.....	16
No response to question.....	1
Other responses.....	6

Beneficial.....	13
Detrimental.....	9 + 2
No response.....	1
Other responses.....	2

This questionnaire was mailed to 159 air taxi operators on November 2, from a list of those air carriers who hold current ADCED certificates of compliance. Surveys were not sent to major airlines or to helicopter businesses, as they do not fly hunters to and from the field. As of this tabulation on December 5, a total of 62 responses had been received, for a rate of return of 39%.

For purposes of this analysis, the responses were divided into those who indicated they were members of the Alaska Air Carriers Association (30 respondents), and those who did not (31 respondents). One respondent did not indicate whether he was a member or not.

Of those who said they were members of the AACA, nine thought the new provision in SB 191 would create more business for existing air taxis, while five thought it would create less. Eleven AACA members thought the law would have little effect on business, and another five gave some other response, usually a combination of two of the above answers.

Of those who were not members, eight thought there would be more business, eleven thought there would be less, and ten saw the law as having little effect on business. One gave no response, and one gave another, unquantifiable response.

Regarding what effect the new law would have on the resources, the majority of both members and nonmembers do not think there will be a significant impact. Eight AACA members see the new law as beneficial, two said it would be detrimental, and 13 thought it would have no significant impact. Two gave responses for which there was no category.

Of non-AACA members, four thought the law would be beneficial to wildlife, seven thought it would be detrimental, and 19 saw no significant impact. One other gave no response to the question.

The respondent who did not indicate whether or not he was an AACA member thought there would be more business, and that the law would be beneficial to wildlife.

Although our analysis of this survey is in the preliminary stages, it would seem to indicate that those who are not members of the air carriers association are generally less optimistic about the effects the law will have on both business and wildlife than are those who are members of the AACA.

A summary of the comments will be compiled for the final survey analysis. Many respondents in their comments did not feel that SB 191 was the proper approach to solve the problems air taxis are having with unlicensed carriers offering services for hire, and that a broader approach should have been taken.

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH & WILDLIFE PROTECTION

STEVE COWPER, GOVERNOR

ARTHUR ENGLISH
COMMISSIONER

5700 EAST TUDOR ROAD
ANCHORAGE, ALASKA 99507
PHONE: (907) 269-5509

April 18, 1990

The Honorable Senator Jan Faiks
P.O. Box "V"
Juneau, Alaska 99811

Dear Senator Faiks:

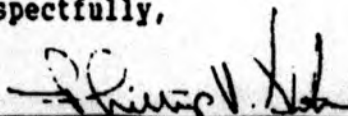
The attached memo from Sergeant D'Amico to myself is an expanded version of our testimony to the Senate Finance Committee on April 17, 1990.

I might add that this last fall on opening day of moose season I was present at an air taxi's base of operations. There were 100 hunters waiting to be flown out by that particular air taxi. To say that flying hunters into the field was an incidental part of his income is a farce. He and many others derive much of their income indirectly from Alaska's game animals through this flying.

As I'm sure you recall the vast majority of the task force members felt that the air taxis need to be regulated. It is my recollection that there was also a substantial amount of testimony from rural Alaska residents as for the significant impact air taxis played on game in their areas. To allow air taxis to operate with no threat of punishment is as much a crime as what big game guides did during the 1960's with aircraft and aerial hunting.

If I or any member of Fish and Wildlife Protection can be of further assistance please do not hesitate to contact me.

Respectfully,



cc: Commissioner English
Colonel Jordan

PVG/cjn

MEMORANDUM

State of Alaska

TO: Captain Phil Gilson
Enforcement Commander
Fish & Wildlife Protection
Anchorage

DATE: April 17, 1990

FILE NO:

TELEPHONE NO: 269-5671

FROM: Sergeant Joe D'Amico
Commander-Statewide Investigations
Fish and Wildlife Protection
Anchorage

SUBJECT: Air Taxi/Transporter
Legislation

After reviewing both the C.S. for HB 448 and the C.S. for SB 422, I believe that the CS HB 448 is a substantially better piece of legislation. There are several reasons for this conclusion; however, simply stated CS HB 448 has less loopholes and would be easier to enforce. The amendments added today to the CS for SB 422 cripple it in such a fashion that we really cannot use it.

As you know I was the field supervisor for our special program last fall in the Iliamna, Port Alsworth, and Sparrevohn areas. Additionally, I have reviewed, supervised, or personally investigated virtually all of the major "commercial" wildlife cases for the Division since 1986. These experiences, coupled with my personal knowledge and experience as pilot/trooper in Bethel and Glennallen have led me to the following conclusions:

1. The Alaska Legislature has been generally receptive, supportive, and helpful in combatting illegal and unethical hunting. My conclusion is based upon a sequence of events that occurred in recent Alaska "big game" history. During the late 1970s and early 1980s the big game guiding industry was riddled with violators. Same day airborne, wanton waste, and closed season violations were commonplace. Even with the frequent and successful use of covert (undercover) operations, many guides were able to stay in business and even prosper. This was not only due to our weak guiding laws, but also because of the light criminal sentences that were the usual products of the prosecutions.

With some industry support, we were able to work with the legislature as three different guide laws were passed. Additionally, in the early 1980s a simple, comprehensive, and effective "waste" law was passed to attack those problems. By the way, this "waste" law, unchanged, is still on the books and working today. One of the guiding laws, SB 191 was, during it's short life, probably the toughest guiding law in the nation. Even our current, milder, version is among the better ones I have reviewed. Armed with these laws, we were able to actually deter and reduce (not displace) "guiding" and "waste" violations. There is always room for improvement; however, currently, our compliance level is at a substantially higher level than it has been for years. An interesting side note, this current legislature has considered, or already passed a law (CS HB 20) which will assist us in prosecuting cases with multiple defendants.

2. Problem number two was the so-called "outfitter" problem. A series of covert operations again revealed that violations by this group was commonplace. Again, with the help of the legislature, adequate laws were enacted which have helped to bring this problem under control.

The key in both of these success stories is that the legislation that was passed was fairly simple (as legislation goes), but more importantly; it was enforceable!

3. Our current problem is with the last and completely unregulated group (of any size) of commercial game harvesters-the air taxi/air carriers. I know that they consider themselves simply providers of transportation. However, the long and the short of it is that they profit from the taking of our big game resources. If that is not a commercial use, what is it? Let me illustrate to you that this "point to point transportation service" is not the service they portray or actually provide in most of the cases.

The troopers of my section and I have attended many of the major sports shows in the United States. While assisting us, "agents" from other law enforcement agencies, have attended additional shows. What we have found is that the advertisements presented to the prospective clients at these shows portray these services as far more than "point to point transportation". With large signs exclaiming titles such as "Hunt Alaska," "Alaska Big Game Hunting," "Alaska Trophy Hunting," I find it difficult to understand how those can be considered simply "taxi services." Additionally, their brochures, which further advertise and illustrate their services, do not focus on nice clean aircraft and professional looking pilots. Instead, many of their brochures largely focus on dead trophy Alaskan big game animals, and happy successful big game clients. They also have developed more than one brochure, one showing flightseeing and actual charter services, and another devoted primarily to hunting and fishing.

One of the most frustrating situations that I have endured in my present position is not being able to assist clients who have been "cheated" by the unethical air taxi operators. Our problem is simple, there are basically no criminal laws governing the behavior of air taxis with regard to the treatment of clients, or their actions regarding game laws. In addition, they are not required to have a state license that a board could take action on. Finally, for all practical purposes, we have no Consumer Protection Agency (one attorney for the whole state). When I have referred serious cases to the A.G.'s Consumer Protection Office, they have refused to take them because of their case load. They did however take one "client satisfaction" case and successfully prosecuted a big game guide, however.

The complaints lodged by clients against their air taxis have been very consistent over the years:

a) Failure to provide the meat pick ups that have been agreed upon, scheduled, promised, and, in some cases, even paid for. As you know Waste of a Wild Food Animal as a very serious crime in Alaska. Here is a common scenario that our F.W.P. Troopers are regularly faced with: the client of an air taxi hikes out, kills a moose, and packs all of the meat back to the lake or other drop off point. So far so good. The air taxi has agreed to pick up meat on day number 4 or 5 of this 14 day trip. But, the air taxi does not arrive until the 14th day. He claims the weather has precluded him from coming sooner. However, the client, and our own troopers have seen that same air taxi flying almost daily during this entire time period in the same area. Our investigation reveals that the air taxi was extremely overbooked, and the flying that was witnessed was him dropping off even more hunters into an already crowded area. Now, because of 10 extra days without refrigeration, the meat is rotten. Who is to blame?

Legally, Alaska law requires the hunter to salvage the meat for human consumption, the air taxi is not criminally liable. But when the client brings it to the pick up point hasn't he met his legal liability? Especially when you discover he scheduled a meat pickup with the only person who knew where he was? However, had this same scenario occurred on a guide-outfitted hunt, the guide-outfitter would have been held accountable either criminally through the courts, or civilly to the board for license action.

During the fall of 1989 hunting season, I personally was involved with several cases just like this. In some cases we were able to telephone the air taxi and "pressure" them into getting the meat picked up. But many times it was too little, too late, and many pounds of meat rotted. Many of those clients left Alaska unsatisfied and vowed to not return.

Currently, my Sergeant-Investigator is investigating the most egregious of these complaints, which incidentally, involves one of the most prominent air taxi business in Alaska. My plan is to review the case based on the theory of a fraud case. When the case is reviewed, we will present it to the District Attorney's Office. I am not optimistic that they will prosecute it, as the Anchorage D.A.'s office has a policy where they refuse to bring up out of state witnesses for anything less than "B" Felonies. Our budget does not provide for witness transportation. I do believe it is worth a try, as if we are unsuccessful, we may be able to go back to the legislature for some help.

b) "Bait and switch." What this means is that the clients and the air taxis agree on a price including the transportation of meat. But when the air taxi arrives to pick them up, he arrives with a smaller plane than agreed upon. This would require extra trips, which are not cheap. Or, he states (as relayed to me by more than one client group) "you have more meat than most clients, so we'll have to make another meat trip-by the way that will be an extra \$900."

c) Misleading the clients about the number of clients and or camps that will be in at the same location. Many of the clients are promised that they will be the only person at the "wilderness camp". But when they arrive, they not only find other camps filled with clients, but also find their air taxi putting some of those other clients there. In addition, they are dropped off by their air taxi as he is picking up someone from the very same location who has already been hunting and killing the game that they were to be the "only one hunting." Some of these small lakes had 5 camps all filled with different groups of clients on them when we checked them this past fall.

d) Putting the clients in locations that are not open to hunting. This is self-explanatory. But these "taxi" operators are only providing transportation from one point to another right? Wrong, many of these clients booked these trips at a sports show and were promised to be taken into an area all by themselves, "teeming with game." They relied on these "professionals." How does someone from the Midwest have any idea where they are after flying 1 or 2

hours through the mountains. Again, Alaska law holds the hunter responsible, not the air taxi. However, the guide-outfitter would be responsible, why shouldn't all commercial users have some responsibility for these tourists who contribute to our economy and are so very dependant on these "professionals?"

In one case, I found a two-person group in an established camp (a violation by itself) of an air taxi. They were happy to see me; their licenses and tags were in order. They were genuinely enjoying their trip to Alaska. They were dropped off for a 10 day combination hunt for moose and caribou. They were told by their air taxi operator that they were in a specific game management unit which was open for caribou and moose hunting. However, I had to inform them that they were in a different unit which closed for moose on the day I arrived. Fortunately, depending on how you look at it, they were in an area that held no moose, and probably had not in recent years.

In another case, I found some people dropped off on a moose hunt literally within 300 yards from a National Park which was closed to all but subsistence hunting, and was closed to hunting by means of aircraft transportation. They were from the lower 48 and each paid their air taxi \$600 to fly into this location. They were not told about the park by their air taxi. Fortunately, I arrived before they hunted in the park, and showed them the boundary so they could do some hunting in the other direction.

e) Putting clients in areas where no game or only one species is found. Many of these clients pay for "combination" hunts, i.e. moose/caribou, moose/black bear. Many times, I have found clients in low lying swamps many, many miles from where any caribou would even think about walking during the fall hunting season. Caribou do use some of those swamps in the winter and during calving, so technically I guess you could call it a caribou area. Some of the more reputable air taxi operators have contacted me about this practice and complained about their competitors. As an F.W.P. Trooper, what do I tell a client when he asks me where the caribou are, and I know that he has absolutely no chance of harvesting one during that time of year?

My conclusion is that the problems that we experienced with the guiding, and "outfitting" industries have been largely brought under control. We still have some violators, but we always will. Our covert and conventional law enforcement programs will continue to trim those violators. However, we do need some help with the air taxi problem.

My caution is this, I would rather have no law than something, so watered-down and unenforceable than some of the amendments I read today. The proposed law dealing with an air taxi's failure to turn in the required reports is unenforceable due to the culpable mental state required. In addition, what D.A. is going to take a "B" Misdemeanor to trial. We have difficulty getting Fish and Wildlife "A" Misdemeanors to trial; and they do not have such a high (intentional) culpable mental state. The amendments offered by the Air Carrier's Association, and even the ones offered by Director Burns make the legislation virtually unenforceable. Certainly unprosecutable, if not unenforceable.

April 17, 1990
Air Taxi/Transporter
Page 5

In conclusion sir, I am truly concerned about our ability or lack thereof of turning this one around. There are many ethical and honest air taxi operators. Some truly do not transport many hunters. However many do, and because of sheer numbers, this problem is so different compared with our earlier experiences with "guides" and "outfitter". Without some decent legislation governing this large commercial resource user group, I just do not see a way to address this problem short of ignoring it. We have no tools in our bag for this one.

If you have further questions, please contact me.

RESOLUTION NO. 90-50-BOG

ALASKA BOARD OF GAME

RELATING TO REPORTING OF HUNTER USAGE OF AIR TAXI OPERATIONS

WHEREAS, it is of critical importance to the Board of Game in its role of protecting the wildlife resources of the State and allocating uses of these resources to the public, to know the location, numbers and timing of game harvest by hunters utilizing air taxi transportation; and

WHEREAS, the Board recognizes that air transportation is a very important means of access to game resources by many citizens of Alaska as well as non-residents, and

WHEREAS, the Board has received many reports from the public of excessive local harvest in certain areas by hunters transported by air taxi, and

WHEREAS, the lack of legal requirements for reporting of hunters transported by air taxi operators prevents the Board from having the information necessary to objectively determine whether a problem exists and whether corrective action is necessary,

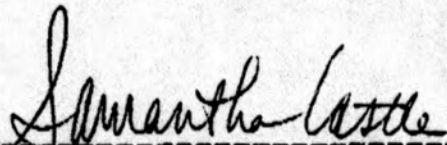
NOW THEREFORE BE IT RESOLVED,

the Alaska Board of Game urges the Alaska State Legislature to pass legislation that would require all air taxi operators to report the number of hunters and big game animals transported; and

RESOLUTION NO. 90-50-806
Alaska Board of Game
Page Two

BE IT FURTHER RESOLVED,

that copies of this Resolution be promptly transmitted to the Governor, the President of the Senate, the Speaker of the House, the Chairmen of the Senate and House Resources, and Transportation, committees, and to the Commissioner of the Department of Fish and Game.



Samantha Castle, Chairman
Alaska Board of Game

ADOPTED: April 2, 1990
Anchorage, Alaska
VOTE: 7 Favor 0 Oppose

**Legislative Task Force on
Guiding and Game**

January 1990

ADDITIONAL RECOMMENDATIONS

The Task Force also recommends unanimously that:

- 1. The legislature maintain adequate funding for the Department of Fish and Game's Division of Wildlife Conservation, and the Department of Public Safety's Division of Fish and Wildlife Protection. The success of the proposed management system for guide-outfitting depends heavily upon the ability of these state agencies to gather biological data, monitor wildlife use, and enforce laws and regulations.**
- 2. Increased fiscal support for the Board be approved and provided through the Department of Commerce and Economic Development, Division of Occupational Licensing. The Board's workload will be extremely heavy especially during the first five years of the new program, if the system is to be implemented successfully.**
- 3. Letters should be solicited from the federal land management agencies indicating their support for the provisions of the draft legislation proposing an area-based management system for big game guide-outfitting, and expressing their intention to cooperate with the state in implementing this system.**

While the following recommendations are not unanimously endorsed, it is the concensus of the Task Force that they merit future consideration by the legislature or another task force.

- 1. Immediate attention should be given to further managing transporters who provide unguided hunting services. We are aware that the state must not interfere unnecessarily with air or water commerce; on the other hand, transporters can directly contribute to overharvest in some areas and then readily shift into other areas. Those who provide commercial services for hunting must participate with the big-game guide-outfitting industry in reimbursing the state for commercial use of the public wildlife resource.**

Regulatory action by the new Big Game Commercial Services Board will be necessary, and enabling legislation may be required by the legislature. The legislature may wish to consider establishing another task force to further explore this problem and recommend solutions.

- 2. The Board should consider increasing the commercial use permit fee from that temporarily established in 1989. While we wish to leave to the Board the final decision on what the charge should be, we believe the present fee of \$100 does not sufficiently reimburse the state for the commercial use of the public wildlife resource.**

Arguments Against Requiring Guides to Obtain FAA 135

1. Air transportation is not a primary component in operating a guiding service--offering support facilities and personnel in the field is.
2. The FAA allows individuals to operate under Section 91 under current law.
3. There is absolutely no evidence to indicate that client safety has been jeopardized in the past by guides operating under Section 91.
4. Fishing lodge operators fly far more client hours than hunting guides do. They are able to operate under FAA Section 91.
5. A 135 requirement will force small guides out of business and greatly inhibit new entrants into the guiding industry. This is not consistent with the intent of the Task Force bill.
6. 1989 Task Force on Guiding Survey indicated the majority of AACA (Alaska Air Carriers Association) members and non-AACA operators felt that a 135 requirement for guides:
 - a. no significant effect on their business
 - b. no positive effect on the wildlife resource.
7. FAA does not have the administrative capabilities to regulate and enforce an additional 400+ 135-operators in the State.
8. The issue of a 135 requirement for guides is in no way connected to transporters being required to obtain a Commercial Use License and pay a Commercial Use fee that benefits wildlife management.

DRAFT

Table 2. Responses to air taxi questionnaire

AACA members.....	30
Not AACA members.....	31
No response to question.....	1
Total.....	62

Effect on Business

AACA members responses

More business.....	9
Less business.....	5
Little effect on business.....	11
No response.....	0
Other responses.....	5

Not AACA members

More business.....	8
Less business.....	11
Little effect on business.....	10
No response.....	1
Other responses.....	1

Effect on wildlife

AACA members responses

Beneficial.....	8
Detrimental.....	2
No significant effect.....	13
No response.....	0
Other responses.....	2

Not AACA members

Beneficial.....	4
Detrimental.....	9
No significant effect.....	19
No response.....	1
Other responses.....	0

Respondent who did not indicate AACA relationship

Effect on business = more

Effect on wildlife = beneficial

Totals

Effect on business

More.....	18
Less.....	16
Little Effect.....	21
No response to question.....	1
Other responses.....	6

Effect on Wildlife

Beneficial.....	13
Detrimental.....	9
No Significant effect.....	32
No response.....	1
Other responses.....	2

AIR TAXI QUESTIONNAIRE - SUMMARY

DRAFT

This questionnaire was mailed to 159 air taxi operators on November 2, from a list of those air carriers who hold current ADCED certificates of compliance. Surveys were not sent to major airlines or to helicopter businesses, as they do not fly hunters to and from the field. As of this tabulation on December 5, a total of 62 responses had been received, for a rate of return of 39%.

For purposes of this analysis, the responses were divided into those who indicated they were members of the Alaska Air Carriers Association (30 respondents), and those who did not (31 respondents). One respondent did not indicate whether he was a member or not.

Of those who said they were members of the AACA, nine thought the new provision in SB 191 would create more business for existing air taxis, while five thought it would create less. Eleven AACA members thought the law would have little effect on business, and another five gave some other response, usually a combination of two of the above answers.

Of those who were not members, eight thought there would be more business, eleven thought there would be less, and ten saw the law as having little effect on business. One gave no response, and one gave another, unquantifiable response.

Regarding what effect the new law would have on the resources, the majority of both members and nonmembers do not think there will be a significant impact. Eight AACA members see the new law as beneficial, two said it would be detrimental, and 13 thought it would have no significant impact. Two gave responses for which there was no category.

Of non-AACA members, four thought the law would be beneficial to wildlife, seven thought it would be detrimental, and 19 saw no significant impact. One other gave no response to the question.

The respondent who did not indicate whether or not he was an AACA member thought there would be more business, and that the law would be beneficial to wildlife.

Although our analysis of this survey is in the preliminary stages, it would seem to indicate that those who are not members of the air carriers association are generally less optimistic about the effects the law will have on both business and wildlife than are those who are members of the AACA.

A summary of the comments will be compiled for the final survey analysis. Many respondents in their comments did not feel that SB 191 was the proper approach to solve the problems air taxis are having with unlicensed carriers offering services for hire, and that a broader approach should have been taken.

cut off date

BSN:1041

2ND SESSION 16 LEG

ALASKA SENATE
CSSB 422 RULES AM 1

9 YEAS 11 NAYS 0 EXC 0 ABS

4/24/90 5:15 PM

~~N~~ ADAMS
~~N~~ BINKLEY
~~N~~ COGHILL
~~N~~ DUNCAN
~~N~~ ELIASON
Y FAHRENKAMP
Y FAIKS

Y FISCHER
~~N~~ FRANK
Y HALFORD
~~N~~ JONES
Y KELLY
Y KERTTULA
~~N~~ PEARCE

Y POURCHOT
Y RODEY
~~N~~ STURGULEWSKI
~~N~~ SZYMANSKI
Y UEHLING
~~N~~ ZHAROFF

+ VOTED FOR
* CHANGED VOTE

BSN:1042

ALASKA SENATE
CSSB 422 RULES AM2

2ND SESSION 16 LEG

4/24/90 5:45 PM

4 YEAS 16 NAYS 0 EXC 0 ABS

N ADAMS	N	FISCHER	Y POURCHOT
N BINKLEY	N	FRANK	Y RODEY
N COGHILL	N	HALFORD	N STURGULEWSKI
N DUNCAN	N	JONES	N SZYMANSKI
N ELIASON	Y KELLY	KERTTULA	N UEHLING
N FAHRENKAMP	N	PEARCE	N ZHAROFF
Y FAIKS			

+ VOTED FOR
* CHANGED VOTE

Goats

BSN:1043

ALASKA SENATE
CSSB 422 RULES AM 3

2ND SESSION 16 LEG

4/24/90 5:48 PM

12 YEARS 8 NAYS 0 EXC 0 ABS

N	ADAMS	Y	FISCHER	Y	FOURCHOT
Y	BINKLEY	Y	FRANK	N	RODEY
N	COGHILL	Y	HALFORD	N	STURGULEWSKI
Y	DUNCAN	Y	JONES	N	SZYMANSKI
Y	ELIASON	N	KELLY	Y	UEHLING
Y	FAHRENKAMP	Y	KERTTULA	Y	ZHAROFF
N	FAIKS	N	PEARCE		

+ VOTED FOR

* CHANGED VOTE

BSN:1044

ALASKA SENATE
CSSB 422 RULES AM 3RD

2ND SESSION 16 LEG

4/24/90 5:55 PM

		15 YEAS	5 NAYS	0 EXC	0 ABS		
Y	ADAMS		Y	FISCHER		Y	POURCHOT
Y	BINKLEY		Y	FRANK		N	RODEY
N	COGHILL		N	HALFORD		Y	STURGULEWSKI
Y	DUNCAN		Y	JONES		N	SZYMANSKI
Y	ELIASON		Y	KELLY		Y	UEHLING
Y	FAHRENKAMP		Y	KERTTULA		Y	ZHAROFF
N	FAIKS		Y	PEARCE			

+ VOTED FOR

* CHANGED VOTE

e614 -----

un

^BC-AK--XGR-Guides Bill)612

^Senate Bill Calls for New System to Regulate Hunting Guides

^By BRIAN S. AKRE=

^Associated Press Writer=

JUNEAU (AP) — Alaska would have a new system to provide commercial guides and outfitters with access to the state's big-game hunting areas under legislation approved Tuesday by the Senate.

The 22-page bill is in response to a 1988 Alaska Supreme Court ruling that Alaska's exclusive guide areas were unconstitutional. It is based largely on the recommendations of a state task force.

The goal of the legislation is to provide a system that allows the state to sustain wildlife populations while allowing the guide-outfitter industry to thrive.

The Senate passed the bill 15-5, sending it to the House where a similar bill is awaiting referral to the floor.

Exclusive guide areas amounted to state-provided monopolies that were treated as private property. Proponents of the old system said it provided an incentive for conservation. But the court said the system violated the state Constitution's clause that says fish and wildlife are for the "common use" of the people.

Senate Bill 422 would establish "guide-outfitter use areas" that would be made available on a regular basis to licensed guide-outfitters. They could not be sold or leased.

The permits to use the areas would last up to 15 years. The state Big Game Commercial Services Board would have the power to revoke them for fraud or violations of permit conditions.

The bill provides a long list of criteria for the board to follow in choosing the guide-outfitters to receive permits. Offerings of the permits would be staggered so they would become available regularly.

Guide-outfitters would have to pay a permit fee based on the number of customers served during the permit period. The fees would range from \$250 to \$2,500.

The Senate Finance Committee, under pressure from air-taxi operators, exempted them from the commercial-use permit and fee required of guides, outfitters and others who provide services to big-game hunters.

Sen. Jan Faiks, R-Anchorage, tried unsuccessfully to amend the bill on the floor to remove the exemption. She said it provides "an incredible loophole" through which air-taxi operators who serve as guides and outfitters can escape state regulation.

Faiks said some air-taxi operators claim to provide transportation only to hunters, but actually provide the complete services of a guide-outfitter. She displayed colorful brochures from air taxi operators, featuring complete hunting packages and showing satisfied hunters with their trophies.

Her position also was supported by written testimony from Sgt. Joe D'Amico, commander of statewide investigations for the state Fish and Wildlife Protection Division.

Air-taxi operators are "the last and completely unregulated group of commercial game harvesters," D'Amico wrote. "There are basically no criminal laws governing the behavior of air taxis with regard to the treatment of clients, or their actions regarding games laws."

D'Amico noted that most of the task force members urged regulation of air-taxi operators, and he cited repeated cases of consumer fraud that the state was powerless to prosecute.

"To allow air taxis to operate with no threat of punishment is as much a crime as what big game guides did during the 1960s with aircraft and aerial hunting," he wrote.

No senators disputed Faiks' arguments, but her amendment failed on a 4-16 vote. Faiks, who had a key role in drafting the legislation and served as chairwoman of the task force, voted against the bill a short time later.

Joining Faiks in voting against the bill were Sens. Jack Coghill, R-Nenana; Rick Halford, R-Chugiak; Pat Rodey and Mike Szymanski, both D-Anchorage.

ap-ag-04-24-90 2105adt

Good

April 26, 1990

MEMORANDUM

TO: Jan
FROM: Mark
SUBJECT: SB 422 (Guide Bill) Plans in the House

Phone with Randall Burns who described the plans for dealing with SB 422 when it reaches House Resources Friday afternoon.

* They plan to take the House Judiciary version of the bill - transfer into THAT the Transportation Services definition of the Senate bill - p 17

* Add the "Transition" section of the Senate bill - WITH cutoff date (this was YOUR floor amendment #1) p 22

* Delete the Transporter "Loophole" language of the Senate bill p 16 (your floor amendment #2)

* Remove the deletion of mountain goats from the definition of big game animal. (i.e. put goats back in the definition)

* Replace the word "intentionally" on page 17 (Fin) line 24) with "knowingly".

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 18, 1990

SUBJECT: CSSB 422 (Finance); Transition: Air Carrier Advertising

TO: Senator Rick Uehling
Co-chair, Senate Finance Committee

FROM: George Utermohle *GU*
Legislative Counsel

The Senate Finance Committee has included in CSSB 422 (Finance) an amendment providing for the transition of new provisions regarding the advertising of big game commercial services by air taxi operators and air carriers.

It is unclear from the language of the amendment what the amendment is intended to accomplish. The amendment provides that if an air carrier is not a provider of transportation services as defined in Section 16 of the bill then any advertising brochures produced by the air carrier prior to April 1, 1990 are not considered to be advertising big game commercial services. However under the bill if the air carrier does advertise big game commercial services, then the air carrier is a provider of transportation services and thus is not eligible to benefit from the exemption.

I can only speculate as to the intent of this transition provision, but it is my assumption that the provision is intended to protect those air carriers who are not included within the current definition of transportation services, because they fly hunters only between state or federally maintained airports or transport big game hunters as only an incidental part of their business, but nonetheless do advertise big game commercial services to the public. After this bill takes effect these air carriers would be required to obtain a transporter license because they advertise big game commercial services and transport big game hunters. Conceivably the transition provision intends to allow this group of air carriers to continue their business as in the

Senator Rick Uehling
Page 2
April 18, 1990

past and to use up their existing stocks of advertising material without falling under the new definition of transportation services. If this is in fact the case, then this result can be achieved by the following language:

Sec. 22. TRANSITION; AIR CARRIER ADVERTISING. Air taxi operators or air carriers ~~who were not required to obtain a transporter license under AS 08.54 before the effective date of sec. 16 of this Act and who~~, but for the fact that they solicit big game hunters as customers for the purpose of providing air transportation to, from, or in the field through the use of publicity brochures or other printed material, would not have to obtain a transporter license after the effective date of sec. 16 of this Act, may continue to use existing stocks of publicity brochures and other printed materials that solicit big game hunters as customers of the air taxi operator or air carrier without having to obtain a transporter license if

- (1) the publicity brochures and other printed materials were produced before April 1, 1990; and
- (2) the air taxi operator or air carrier does not, on or after April 1, 1990, produce or distribute other publicity brochures or printed materials that solicit big game hunters as customers of the air taxi operator or air carrier.

If some other result is intended, please contact me so that the appropriate language can be prepared.

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