

SCOMM

87:23

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 496

Revision Date: _____
Title: Sport Fish Guide Licensing
Sponsor: Representative Bill Williams
Requestor: (H) Special Committee on Fisheries

Dept. Affected: Fish and Game
BRU: Sport Fish
Component: _____
COMPONENT SERIAL NO. _____

Expenditures/Revenues

(Thousands of Dollars)

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES	140.7	140.7	187.0	187.0	187.0	187.0
TRAVEL						
CONTRACTUAL	21.0	21.0	21.0	21.0	21.0	21.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	161.7	161.7	208.0	208.0	208.0	208.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	494.0	508.0	524.1	539.8	556.0	572.7
------------------------	-------	-------	-------	-------	-------	-------

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1024	161.7	161.7	208.0	2.08	208.0	208.0
TOTAL	161.7	161.7	208.0	208.0	208.0	208.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary) The ADF&G estimates that there are presently 2,100 guides and charter operators in Alaska. It is believed that about 15 percent are nonresidents. It is assumed that 10 percent of the guides and charter operators do not conduct a significant amount of business and would chose not to be licensed in the future. Therefore, we assume 1,890 licenses would be sold; 85 percent (approximately 1,600) of which would be resident; 290 would be nonresident. A three percent per year growth rate is assumed. Department expenditures to administer the program and analyze required log books and reports in attached.

Prepared By: Paul Krasnowski, Director Phone: 465-6184
Division: Sport Fish Date: February 18, 1994
Approved by Commissioner: [Signature]
Agency: Alaska Department of Fish and Game Date: February 18, 1994

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Guide Licensing and Reporting Department Expenditures

FY 95, FY 96

Line 100	Cartographer II (4 months @ 5.0)	2.0	
	(Design logbooks, maps)		
	Analyst/Programmer III (6 months @ 4.8)	29.8	
	(Design software for reporting and data summary)		
	Two Data Processing Clerks II (6 months each @ 3.2)	38.1	
	(Enter logbook data, produce summaries)		
	Two Fishery Biologist II (6 months each @ 4.4)	52.8	
	(project managers, distribute and collect logbooks, analyze data, produce reports)		
Line 100 Total			\$140.7
Line 300	Printing of logbooks, licenses	20.0	
	Postage	1.0	
Line 300 Total			\$21.0
Estimated Annual Cost			\$161.7

FY 97, FY 98, FY 99, FY 100

Line 100	Cartographer II (2 months)	10.0	
	Analyst/Programmer (2 months)	9.6	
	Four Data Processing Clerks (6 months each)	76.2	
	Two Fishery Biologist II (6 months each)	52.8	
	Two Fishery Technician III (6 months each)	38.4	
Line 100 Total			\$187.0
Line 300	Printing and Postage		\$21.0
Estimated Annual Cost			\$208.0

Note: It is assumed that by FY 97 the reporting system will be sufficiently refined to provide in-season fishery management data. This will require additional line 100 support to provide more immediate turnaround of data. For example, whereas FY 95 and 96 operations might provide monthly reports with a two- to four-week delay, FY 97 operations may allow weekly summaries with a one- to two-week delay.



Official Business

PLEASE PRINT!
NAME

COMMITTEE:
HOUSE SPECIAL COMMITTEE
ON FISHERIES

DATE: FEBRUARY 23, 1994

SIGN-IN

Subject of meeting:

HB 496

AN ACT RELATING TO SPORT
FISH GUIDING.

ADDRESS (MAILING) & (ZIP)**PHONE**

REPRESENTING

DO YOU WANT TO TESTIFY?

[illegible]



Alaska State Legislature

FEB 23 1994

Please enter into the record my testimony to the HOUSE SPEC CMTE ON FISHERIES
committee name

committee on HB 496, dated 2/23/94
bill/subject

I OPPOSE BILL BECAUSE OF IT'S VAGUE INTENT AND EXORBITANT FEES. INFORMATION GATHERING AND GUIDE REGISTRATION CAN BE COMPILED BY "MAIL OUTS" - AS IS DONE NOW TO REGISTER FISHING GUIDES IN COOK INLET + SUTTHA DRAINAGES.

- ANY FURTHER QUALIFICATIONS FOR FISHING GUIDE LICENSES SHOULD INCLUDE:
- ① VALID AK. BUSINESS LICENSE AND AK BOROUGH SALES TAX REGISTRATION
 - ② AK. COMM FISH VESSEL LICENSE
 - ③ USCG AK NUMBERS ON BOAT
 - ④ USCG 6/PAL LICENSES OR HIGHER
 - ⑤ VALID AK SPORT FISH LICENSE
 - ⑥ BASIC AMERICAN RED CROSS FIRST AID CERTIFICATION OR EQUIVALENT.
 - ⑦ PROOF OF LIABILITY INSURANCE (100,000 PER PERSON / 300,000 COMBINED)
 - ⑧ THESE QUALIFICATIONS SHOULD BE ADMINISTERED BY THE AK. DIV. OF OCCUPATIONAL LICENSING AND NOT THE FISH + GAME DEPT.
- ANY LICENSING OF AK FISHING GUIDES SHOULD BE THROUGH THE AK. DIV. OF OCCUPATIONAL LICENSING.

Signed: William Gavin
Testifier

WILLIAM GAVIN

70 BOX 3628 SUTTHA AK. 99669

Address

262-7746

Phone No.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 18, 1994

SUBJECT: Sectional Summary of HB 496; An Act relating to sport fish guides; and providing for an effective date. (Work Order No. 8-LS1665\A)

TO: Representative Bill Williams

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of HB 496; An Act relating to sport fish guides; and providing for an effective date.

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

Section 1 of the bill amends AS 16.05.330(a) to prohibit a person from engaging in sport fish guiding without having a sport fish guide license in the person's possession.

Section 2 of the bill amends AS 16.05.340(a) to establish the fees for resident and nonresident sport fish guide licenses. A person who has a permit to provide sport fish guide services in the Kenai River Special Management Area may receive a sport fish guide license without charge under certain circumstances.

Section 3 of the bill adds a new section to AS 16.05 relating to sport fish guides. A person may not engage in sport fish guiding without first obtaining a sport fish guide license. A person who obtains a sport fish guide license shall accurately and substantially complete reports required by the department. A sport fish guide who does not accurately or fully complete the required reports may lose his or her sport fish guide license for three years. A person may not receive a sport fish guide license unless the person has submitted the required reports for the preceding year to the department.

Section 4 of the bill amends AS 16.05.815(d) to provide that information contained in reports required of sport fish guides is confidential.

Representative Bill Williams
February 18, 1994
Page 2

Section 5 of the bill amends AS 16.05.940 by adding a definition of "sport fish guiding."

Section 6 of the bill provides that the bill takes effect January 1, 1995.

GU:pl:mi
94-138.plm

SCRIPT

HOUSE SPECIAL COMMITTEE ON FISHERIES

February 23, 1994

Good morning. Today is Wednesday, February 23 and this is a meeting of the House Special Committee on Fisheries. The time is **(give time)**. Will the secretary please take the roll.

Today we will be hearing HB 496 - An Act relating to sport fish guides. This is Representative Williams bill and **Pete** from his staff will be testifying this morning. We also have **Paul Krasnowski**, Director of Sport Fish Division, ADF&G and **Geron Bruce**, Special Assistant to the Commissioner, ADF&G as well as Frank Homan from CFEC. This hearing is being teleconferenced and after we receive testimony from the sponsor and any agencies wishing to testify, my intent is to take testimony from the teleconference sites.

First, I would like to call your attention to what is in your packets.

1. Bill
2. Fiscal Note and Position Paper from ADF&G
3. Sponsor Statement
4. Sectional Summary

Please go ahead, Pete.

Anyone else from either ADF&G or CFEC wish to testify?

(Go to teleconference sites.)

Any additional testimony from Juneau?

Any questions by committee members?

(Do you want to move this out? I would think it would be a good idea.)

(Entertain a motion to adopt HB 496. Entertain a motion to pass it to its next committee of referral.)

Adjournment.

Pete Eckland, Rep. Williams

1600
200
320,000
179,000
599,00

599,000

290
5600
174000

100

300

160,000
87,000
247,000

290
300
6
97000

Sitka

Sitka Charter Boat Operators

we raised our eyebrows
we will evaluate

support - LIB 496

Ketchikan

Gary Plumb -
charter operator

stipulation as to who buys license

insurance
coast guard - drug test
very vague - put more meat

registrations

handled by division of occupational
licensing should handle it.

Jeff King

more regulations / ~~require~~ ^{cause} more
illegal activity.

* state parks permit license requirements

* tight definitions for what is a guide

access to CMB bank

John George
Alaska Outdoor
Council -

Supports

eliminate business
license -

CREC - a license required

business license
very general

CREC surveys - not conducted statewide
very expensive to conduct
structured as a random survey
doesn't attribute lowest

information providing value
than

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

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PART-TIME						
TEMPORARY						

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Prepared By: Paul Krasnowski, Director Phone: 465-6184
Division: Sport Fish Date: February 18, 1994
Approved by Commissioner: [Signature]
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DEPARTMENT OF FISH AND GAME

POSITION PAPER

Bill No.: HB 496

Sponsor: Representative Williams

Division: Sport Fish

Bill Title: "An act relating to sport fish guides, and providing for an effective date."

Department Position: Support

This bill would amend AS 16.05.330(a) to establish a license for sport fish guiding. It would amend AS 16.05.340(a) to establish a fee for such a license, specifically, \$200 for a resident, and \$600 for a nonresident. Further, it adds a new section of AS 16.05.448 which requires licensed guides to provide reports to the department. It authorizes the department to require reports regarding "time and specific location of guiding activities, the number of clients guided, the species and number of fish taken, the owner and identity of a vessel used in sport fishing. . ." et al.

Sport fish guiding is an important, growing business in Alaska. It is an industry essentially linked to tourism, travel and, most importantly, our fishery resources. A recent federal report estimated that direct expenditures from recreational fishermen in Alaska exceeds \$300 million per year. Department staff believe that estimate is conservative. More than half of those expenditures are from nonresidents, many of whom employ fishing guides and charter boat operators.

At this time, guides and charter boat operators are not regulated in Alaska except for Board of Fisheries regulations requiring registration with the Department of Fish and Game for those conducting business in upper Cook Inlet and Southeast Alaska.

While the fishery resources of the state can be managed in future years as they have in the past without licensing or limitation, the viability of the industry itself may be at risk. Charter boat operations in some parts of the state are increasing numerically and are becoming increasingly competitive. Guides and charter businesses are often high-profile operations and may be viewed as competing user groups by resident or unguided anglers.

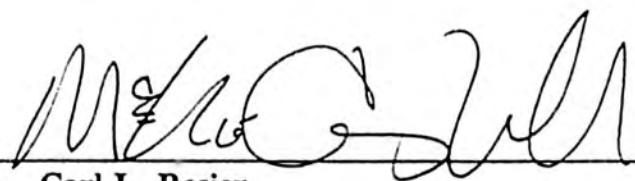
Information describing numbers of guides and charter operators, numbers of clients, numbers of trips and areas fished is unavailable. The legislature and the Alaskan Board of Fisheries, therefore, lack adequate data upon which to base decisions regulating this industry and managing the fishery resources that it depends upon.

POSITION PAPER
HB 496

This bill will require all freshwater guides and charter operators to obtain a new sport fish guiding license. Fees are set and the revenue would accrue to the Fish and Game Fund. The department will be empowered to require reporting which will detail needed information. The department would utilize the revenues from the license fee to support the licensing program, collect and analyze data, and prepare reports for public use as well as legislative and fisheries board deliberations.

The department supports this bill because it will provide a mechanism to collect, process, analyze, and utilize necessary data on sport fish guiding. In the long run, it will improve resource management and may assist in providing stability and controlled growth in this important industry.

Commissioner's Signature


for Carl L. Rosier

Date

2/22/94

Alaska State Legislature

Committees:

House Resources,
Chairman

Community &
Regional Affairs

Labor & Commerce



Representative William K. Williams

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
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352 Front Street
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-8546

SPONSOR STATEMENT

HOUSE BILL 496 - "ESTABLISHING A GUIDED SPORTFISHERY LICENSE"

BY REP. BILL WILLIAMS
FEB. 21, 1994

The guided sportfishery is an important and rapidly growing industry in the Alaskan economy, and will inevitably continue to grow and expand throughout the state. The ability of the state to provide for the sustainable development, and sound, fair, sensible management of the guided sportfishery, as with any industry, is dependent upon the availability of good complete information upon which to base decisions. The goal of House Bill 496 is to provide a mechanism for the on-going collection of this crucial data regarding the guided sportfishery.

In some parts of Alaska, the rapid growth in the charter industry has motivated sportfish guides themselves to request a moratorium on further expansion. That is the case in Ketchikan. In researching the feasibility of various limitation schemes for these constituents, it was discovered that nearly every approach to a moratorium or limitation in the guided sportfishery for state-managed species of fish would be unconstitutional. Furthermore, since there is room for further growth in the guided sportfishery in many areas of the state, including parts of southeastern Alaska, it may be premature to pursue limitation at this time, even on a regional basis.

There is an incredible lack of hard data available regarding the guided sportfishery in Alaska. By regulation, registration of vessels engaged in sportfish guiding activity is required in several parts of the state, but not in others. Registration of guides themselves is required in a few rivers, but not elsewhere. No uniform licensing procedure exists in Alaska. Thus, there is no complete information about who is actively engaged in sportfish guiding, how many clients are served, to what extent particular rivers, streams, and marine waters are being utilized, and so on.

Without a means for gathering dependable information, it is impossible to monitor the activity or growth of the guided sportfishery on a statewide basis, provide for the sustainable development of the industry or the sound management of the fishery resources upon which it depends, or make sound decisions about whether any sort of limitation schemes might be feasible or desirable. It is time to acknowledge this important growing industry and ensure that management decisions can be based on complete information, not on guesswork, perception, and supposition. That is what HB 496 is intended to accomplish.

The bill establishes a guided sportfishery license. Each person who plans to engage in sportfish guiding, both on fresh water and salt water, from a vessel or otherwise, will be required to purchase the license. The license holder would then be responsible for submitting reports which will be developed by the Sportfish Division of the Department of Fish and Game to enable the state to build a data bank regarding the guided sportfishery.

The fee for the license will go into the Fish and Game Fund. The funding generated by the fee is intended to cover the cost of the licensing procedure and the gathering, compiling and analysis of information. The fees called for in the current bill were suggested by several charter operators. However, if the fiscal note being prepared by the Department reveals that the program can be funded with lower license fees, those can be reduced in the committee process. The goal is simply for this program to be fiscally self-sustaining.

The bill does not impose any limitations on the number of guides or vessels in the state or who can purchase the license to guide, nor does it affect their activities.

HB 496 is a first and imperative step towards having solid data upon which to build sound management policy for the guided sportfishery in Alaska.

Alaska State Legislature
Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON:
DEPT. OF FISH AND GAME
DEPT. OF PUBLIC SAFETY



SESSION:
CAPITAL BUILDING, ROOM 204
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FAX: (907) 455-3445

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716 W. 4TH AVE. #630
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-8167
FAX: (907) 258-8468

HOUSE SPECIAL COMMITTEE ON FISHERIES
March 4, 1994

HB 496 - An Act relating to sport fish guides

New packet materials:

1. Amendment - Representative Williams (intent language)
2. Commercial license fees for state of Washington
3. Amendments - Representative Phillips (data kept confidential; sections repealed to a time appointed; fee change)
4. Legal opinion on constitutionality of license fee exemption - by request of Representative Phillips
5. Legal opinion on definition of "sport fish guiding" - by request of Representative Phillips
6. Amendment - Representative Phillips (definition of sport fish guiding)
7. Public correspondence relating to HB 496
 - a. Oregon State Marine Board
 - b. Oregon Alaska Sportfishing

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE WILLIAMS

TO: HB 496

Page 1, following line 2:

Insert a new bill section to read:

"* Section 1. INTENT. It is the intent of the legislature that the revenue generated by the sale of sport fish guide licenses be appropriated to the Department of Fish and Game for the collection and analysis of information from sport fish guides under AS 16.05.448."

Page 1, line 3:

Delete "Section 1."

Insert "Sec. 2."

Renumber the following bill sections accordingly.

WASHINGTON STATE DEPARTMENT OF FISHERIES

COMMERCIAL LICENSE FEES FOR 1994 LICENSE YEAR

SALMON GEAR			SHELLFISH GEAR		
	RESIDENT	NON-RES.		RESIDENT	NON-RES.
PURSE SEINE (L)	630.00	1085.00	CRAB POTS (Non-Puget Sound/Includes Delivery License)	295.00	520.00
GILL NET (L)	480.00	785.00	CRAB POTS (Puget Sound)	130.00	185.00
TROLL (L)	480.00	785.00	CRAB RING NET (Non-Puget Sound)	130.00	185.00
REEF NET (L)	480.00	785.00	CRAB RING NET (Puget Sound)	130.00	185.00
SALMON DELIVERY (L)	480.00	785.00	DUNGENESS CRAB (Puget Sound) (L) ...	130.00	185.00
AN ADDITIONAL \$100.00 SURCHARGE HAS BEEN INCLUDED FOR ALL OF THE ABOVE SALMON LICENSES*			HARD SHELL CLAM		
			MECHANICAL HARVESTER	530.00	985.00
			RAZOR CLAM	130.00	185.00
			GEODUCK DIVE	185.00	295.00
			SEA CUCUMBER DIVE (L)	130.00	185.00
			SEA URCHIN DIVE (L)	130.00	185.00
			SHELLFISH DIVE	525.00	1045.00
			SHELLFISH POTS	130.00	185.00
			BURROWING SHRIMP	185.00	295.00
			HOOD CANAL SHRIMP	325.00	575.00
CHARTER LICENSES			SHRIMP TRAWL (Non-Puget Sound)	240.00	405.00
SALMON CHARTER* (L)	480.00	785.00	SHRIMP TRAWL (Puget Sound)	185.00	295.00
NON-SALMON CHARTER	225.00	375.00	SQUID GEAR	185.00	295.00
OTHER FOOD FISH GEAR			OFFSHORE WATER-NON-SALMON		
BAITFISH LAMPARA	185.00	295.00	DELIVERY OTHER THAN SALMON	110.00	200.00
BAITFISH PURSE SEINE	530.00	985.00	OCEAN PINK SHRIMP DELIVERY (L)	150.00	300.00
BOTTOMFISH JIG	130.00	185.00	MISCELLANEOUS FEES**		
BOTTOMFISH POTS	130.00	185.00	ALTERNATE OPERATOR	35.00	35.00
BOTTOMFISH TROLL	130.00	185.00	ANGLER TRANSFER FEE	20.00	20.00
CARP	130.00	185.00	CHANGE IN OPERATOR DESIGNATION ..	22.00	22.00
DOGFISH SET NET	130.00	185.00	CHANGE IN VESSEL DESIGNATION	35.00	35.00
FOOD FISH DRAG SEINE	130.00	185.00	DUPLICATE LICENSE CARD	20.00	20.00
FOOD FISH SET LINE	130.00	185.00	DUPLICATE LICENSE DECAL	20.00	20.00
FOOD FISH TRAWL (Puget Sound)	185.00	295.00	EMERGING COMMERCIAL FISHERY	185.00	295.00
FOOD FISH TRAWL (Non-Puget Sound/Includes Delivery License)	240.00	405.00	OYSTER RESERVE	130.00	185.00
HERRING DIP BAG NET (L)	175.00	275.00	SALMON ROE	95.00	95.00
HERRING DRAG SEINE (L)	175.00	275.00	SALMON GUIDE***	150.00	730.00
HERRING GILL NET (L)	175.00	275.00	SINGLE SALMON DELIVERY	325.00	475.00
HERRING LAMPARA (L)	175.00	275.00	SPAWN ON KELP	Awarded by auction to valid herring license holders	
HERRING PURSE SEINE (L)	175.00	275.00	OCEAN PINK SHRIMP		
COLUMBIA RIVER SMELT	380.00	685.00	SINGLE DELIVERY	100.00	100.00
SMELT DIP BAG NET	130.00	185.00	WHOLESALE DEALERS		
SMELT GILL NET	380.00	685.00	WHOLESALE DEALER	250.00	
WHITING (Puget Sound) (L)	295.00	520.00	FISH BUYER	95.00	
OTHER GEAR	185.00	295.00	(L) Limited Entry License		
TRANSFER OF OWNERSHIP			** Must use forms available from the Department of Fisheries		
LIMITED ENTRY LICENSES	Equal to three and one half times the annual renewal fee plus additional non-resident fee if applicable. See back of fee sheet.				
NON-LIMITED ENTRY LICENSES	Equal to the annual renewal fee plus additional non-resident fee if applicable. See back of fee sheet.				

* RCW 75.50 REQUIRES A \$100.00 SURCHARGE ON ALL COMMERCIAL SALMON LICENSES SOLD IN THE STATE OF WASHINGTON. THE SURCHARGE WILL BE DEPOSITED IN THE REGIONAL FISHERIES ENHANCEMENT GROUP ACCOUNT AND USED FOR REGIONAL FISHERIES ENHANCEMENT PROJECTS.

*** RCW 75.28 REQUIRES A \$20.00 RESIDENT AND A \$100.00 NON-RES SURCHARGE ON ALL SALMON GUIDE LICENSES SOLD IN THE STATE OF WASHINGTON. THE SURCHARGE WILL BE DEPOSITED IN THE REGIONAL FISHERIES ENHANCEMENT GROUP ACCOUNT AND USED FOR REGIONAL FISHERIES ENHANCEMENT PROJECTS.

Mailing Address
Department of Fisheries
License Division
P.O. Box 43141
Olympia, WA 98504-3141

Office Location
Department of Fisheries
License Division
1111 Washington Street S.E.
Olympia, WA 98504

PHONE #: 902-2488
FAX #: 902-2942

(Rev. 10/01/83)

LIMITED ENTRY LICENSES	LICENSE FEE	TRANSFER FEE	TRANSFER TO NON-RESIDENT
DUNGENESS CRAB (PUGET SOUND)	130.00	455.00	585.00
HERRING DIP BAG NET	175.00	612.50	787.50
HERRING DRAG SEINE	175.00	612.50	787.50
HERRING GILL NET	175.00	612.50	787.50
HERRING LAMPARA	175.00	612.50	787.50
HERRING PURSE SEINE	175.00	612.50	787.50
OCEAN PINK SHRIMP	150.00	525.00	675.00
SALMON CHARTER	380.00	1330.00	1710.00
SALMON DELIVERY	380.00	1330.00	1710.00
SALMON GILLNET	380.00	1330.00	1710.00
SALMON PURSE SEINE	530.00	1855.00	2385.00
SALMON REEF NET	380.00	1330.00	1710.00
SALMON TROLL	380.00	1330.00	1710.00
WHITING (PUGET SOUND)	295.00	1032.50	1327.50

NON-LIMITED ENTRY LICENSES	TRANSFER FEE	TRANSFER TO NON-RESIDENTS
CHARTER LICENSES		
NON-SALMON CHARTER	225.00	375.00
OTHER FOOD FISH		
BAITFISH LAMPARA	185.00	295.00
BAITFISH PURSE SEINE	530.00	985.00
BOTTOMFISH JIG	130.00	185.00
BOTTOMFISH POTS	130.00	130.00
BOTTOMFISH TROLL	130.00	130.00
CARP	130.00	185.00
DOGFISH SET NET	130.00	185.00
FOODFISH DRAG SEINE	130.00	185.00
FOODFISH SET LINE	130.00	185.00
FOODFISH TRAWL (PUGET SOUND)	185.00	295.00
FOODFISH TRAWL (NON-PUGET SOUND)	240.00	405.00
COLUMBIA RIVER SMELT	380.00	685.00
SMELT DIP BAY NET	130.00	185.00
SMELT GILL NET	380.00	685.00
OTHER GEAR	185.00	295.00
SHELLFISH GEAR		
CRAB POTS (NON-PUGET SOUND)	295.00	520.00
CRAB POT (PUGET SOUND)	130.00	185.00
CRAB RING NET (NON-PUGET SOUND)	130.00	185.00
CRAB RING NET (PUGET SOUND)	130.00	185.00
RAZOR CLAM	130.00	185.00
GEODUCK DIVE	185.00	295.00
SHELLFISH DIVE	525.00	1045.00
SHELLFISH POTS	130.00	185.00
BURROWING SHRIMP	185.00	295.00
HOOD CANAL SHRIMP	325.00	575.00
SHRIMP TRAWL (NON-PUGET SOUND)	240.00	405.00
SHRIMP TRAWL (PUGET SOUND)	185.00	295.00
SQUID GEAR	185.00	295.00
OFFSHORE WATER NON SALMON		
DELIVERY OTHER THAN SALMON	110.00	200.00
MISCELLANEOUS FEES		
EMERGING COMMERCIAL FISHERY	185.00	295.00
OYSTER RESERVE	130.00	185.00
SALMON GUIDE	130.00	630.00

A M E N D M E N T

OFFERED IN THE HOUSE
TO: HB 496

BY REPRESENTATIVE PHILLIPS

Page 3, after line 11:

Insert a new bill section to read:

"* Sec. 5. AS 16.05.815(d) is repealed and reenacted to read:

(d) Except as otherwise provided in this section, the department shall keep confidential (1) personal information contained in fish and wildlife harvest and usage data; and (2) when the knowledge may be detrimental to the fish or wildlife population, the records of the department that concern telemetry radio frequencies of monitored species, denning sites, nest locations of raptors that require special attention, and the location of fish and wildlife species. The department may release records and information that are kept confidential under this subsection if the release is necessary to comply with a court order or if the requestor is a state or federal agency. After 25 years, the records and information that are kept confidential under this subsection become public records subject to inspection and copying under AS 09.25.110 - 09.25.140 unless the department determines that the release of the records or information may be detrimental to the fish or wildlife population. In this subsection, "personal information" has the meaning given in AS 44.99.350."

Renumber the following bill section accordingly.

Page 3, after line 17:

Insert new bill sections to read:

"* Sec. 7. AS 16.05.330(a)(5), 16.05.340(a)(25), 16.05.448, and 16.05.940(37) are repealed.

* Sec. 8. Sections 5 and 7 of this Act take effect January 1, 1999."

Renumber the following bill section accordingly.

Page 3, line 18:

Delete "This"

Insert "Except for secs. 5 and 7 of this Act, this"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE PHILLIPS

TO: HB 496

Page 1, line 13:

Delete "\$200"

Insert "\$100"

Page 1, line 14:

Delete "600"

Insert "250"

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 23, 1994

SUBJECT: Constitutionality of license fee exemption granted to certain sport fish guides (HB 496)

TO: Representative Gail Phillips

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is a brief response to the query of Mike Heimbuch, of your staff, regarding the constitutionality of the license fee exemption granted to certain sport fish guides by a provision of HB 496. In my opinion, the exemption does not violate the state or federal constitutions.

Section 2, HB 496 establishes the license fees for sport fish guide licenses, but authorizes a person to receive the sport fish guide license without charge, if the person holds a permit from the Department of Natural Resources to engage in sport fish guiding in the Kenai River Special Management Area, pays a permit fee that equals or exceeds the sport fishing guide license fee, provides sport fish guide services only in the Special Management Area, and qualifies for a sport fish guide license.

Professional licensing schemes frequently run afoul of the federal commerce clause, privileges and immunities provisions, equal protection clause, and due process clause and the state equal protection and due process clauses. The exemption does not unreasonably burden interstate commerce in sport fish guide services or impermissibly discriminate against nonresidents who provide sport fish guide services, so the exemption would not violate the federal commerce clause or federal privileges and immunities provisions. The exemption does not implicate either the federal or the state due process clauses, so they are not an issue.

The federal and state equal protection clauses, including the uniform application section of the Alaska Constitution (art. VIII, sec. 17), protect similarly situated individuals from unjust discrimination. Those person who hold permits to engage in sport fish guiding in the Kenai River Special Management Area are not similarly situated with other persons who provide sport fish guide services in the state. Notably, those sport fish guides operating in the Special Management Area must pay

a permit fee to the Department of Natural Resources to engage in sport fish guiding -- no other sport fish guides have to pay that permit fee. The permit fee for sport fish guides in the Kenai River Special Management Area is:

- (1) a \$50 nonrefundable application fee;
- (2) an additional fee of \$450 for residents and \$1,350 for nonresidents;

and

- (3) an additional daily per client fee set by negotiation with the department.^{1/}

11 AAC 05.010(a)(12)(I).

In addition to the fact that the exemption applies to individuals who are not similarly situated with other sport fish guides, the exemption is narrowly tailored to apply only to those guides in the Special Management Area who pay a fee higher than the sport fish guide license fee paid by guides who do not pay the Department of Natural Resources permit fee. In essence the state is giving a credit, in the amount that they would have to pay for the sport fish guide license under AS 16.05.340(a)(25), to those persons who must pay the high Department of Natural Resources permit fee. Also, the exemption is available only to those sport fish guides who provide guide services exclusively within the Special Management Area. If a person who has a permit to provide sport fish guide services in the Special Management Area also provides sport fish guide services outside of the area, then that person must pay the full amount of the sport fish guide license fee under AS 16.05.340(a)(25).

If you would like a more formal discussion of this subject, please contact me.

GU:pl:gc
94-151.plm

^{1/} The additional fee for residents and nonresidents and the additional daily per client fee may be waived by the director of parks and outdoor recreation, if the fees are not cost effective to collect, represent an unreasonably high portion of the permit holders receipts, or prevent or discourage the provision of sport fish guide services in the Special Management Area. 12 AAC 05.010(d).

At the present time, the Department of Natural Resources charges the additional fee for residents and nonresidents, but does not charge the daily per client fee.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 24, 1994

SUBJECT: Definition of "Sport Fish Guiding" (HB 496)

TO: Representative Gail Phillips
ATTN: Mike Heimbuch

FROM: George Utermohle *GU*
Legislative Counsel

You have requested an amendment for HB 496 that tightens the definition of "sport fish guiding." In the absence of specific guidance as to how to amend the definition of "sport fish guiding," I have reviewed the definition for obvious shortcomings and prepared the attached amendment.

The definition of "sport fish guiding" proposed by HB 496 states:

"sport fish guiding" means assisting another person to engage in sport fishing by accompanying and directing the person personally for all or a portion of a sport fishing trip in exchange for compensation for services, or an agreement for compensation for services, that is in excess of actual expenses incurred; "sport fish guiding" does not include the provision of only transportation services.

Section 5, HB 496. This definition is largely derived from the definition used by the Board of Fisheries. See, 5 AAC 46.036(d); 5 AAC 49.065(e); 5 AAC 56.036(g) and 56.037(e).

The key elements of the definition are:

- (1) assisting another person to engage in sport fishing by
 - (A) accompanying the person; and
 - (B) directing the person;
- (2) personally;
- (3) for all or part of a sport fishing trip;
- (4) in exchange for compensation for services, or an agreement for compensation for services, that is in excess of actual expenses incurred;

(5) the provision of only transportation services is not sport fish guiding.

At this point the most problematic element of the definition is that relating to assisting a person to engage in sport fishing by directing the person. There is more to sport fish guiding than telling (directing) a person where or how to fish. Directing a person while they are engaged in sport fishing would not seem to include providing fishing gear, baiting hooks, rigging gear, landing fish, and field dressing fish. These activities would seem to be important factors to be considered in determining who is a sport fish guide.

To expand the definition of sport fish guiding to include these activities, the attached amendment uses the phrase "directly aiding the person in taking sport fish" to replace "directing the person." A person must directly aid the sport fishermen in taking fish; this criterion is intended to distinguish between a sport fish guide and another person who may also be present and providing services to sport fishermen on a fishing trip, such as a camp cook. Also, the term "take" is important in this context because it includes a range of activities associated with catching fish, such as the pursuit and actual capture of fish and the attempt to pursue or capture fish. See, AS 16.05.-940(33).

Each of the elements of the definition leaves some room for quibbling as to the exact activity that is included within the element. It is not possible to formulate absolute black and white criteria to conclusively determine in every situations whether a person is a sport fish guide. There will always be those few instances where a person falls into the gray area between being a guide and not being a guide. Those situations will have to be decided on a case-by-case basis in light of the purposes of the licensing statutes. Thus, it will be important for the legislature to express on the record its purposes for enacting HB 496.

Defining those activities that constitute guiding has always been difficult. The definition of guiding for purposes of licensing big game guide-outfitters has evolved over time, but still is the subject of discussion. Defining "sport fish guiding" can be expected to be a similarly difficult and evolutionary process.

If I may be of further assistance, please advise.

GU:pl
94-155.plm

Enclosure

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE PHILLIPS

TO: HB 496

Page 3, line 13, after "means":

Insert "personally"

Page 3, line 14:

Delete "directing the person personally"

Insert "directly aiding the person in taking sport fish"

OREGON ALASKA SPORTFISHING

PO BOX 696 TILLAMOOK, OREGON 97141

(503) 842-5171

Honorable William K. Williams
State Capitol Building #128
Juneau, Alaska 99801-1182

RECEIVED
FEB 28 1994
Ans'd.....

February 25, 1994

Honorable Representative Bill Williams,

I am writing in reference to House Bill #496.

I am a professional full-time Sportfishing Guide and for the past five years I've worked in Southeast Alaska during the summer season.

There is no doubt that the Sportfishing Industry is growing rapidly. I'm pleased to see that the Commission recognized the importance of this and allocated more chinook for the sportsman. I applaud your effort to officially recognize the Guided Sportfishing Industry as a growing, important part of Alaska's economy.

There is a need to set high professional standards for the Guided Industry. The people in this business are acting as ambassadors for the State of Alaska. Requiring all fishing guides to register with the state will provide valuable information. However, the proposed license fees to out of state guides is unfair. It is not just to penalize a businessman who brings millions of dollars into the Alaskan economy every year. A portion of the tourist dollar does leave the state, but all of the support industries benefit.

We are sharing a resource. Oregon, Washington, and Canada all contribute to Alaska's bounty of Salmon.

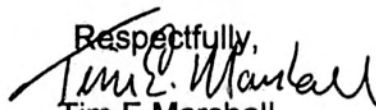
The state of Oregon has a reciprocity Act (for Sportfishing Guides) in place. This Act requires out of state guides to pay a registration fee equal to what the Oregon guides would pay while working in their state. Also, it requires that the out of state guide meets with Oregon's requirements for insurance and First-Aid training. The state of Washington now has a Bill in legislation which mirrors Oregon's law. The bill has passed the House and is in the Senate committee at this time.

I am in favor of registering all guides in the state of Alaska.

I am opposed to the biased fees that would be charged to the non-resident guide.

**United States Coast Guard Licensed • State Licensed • Fully Insured
President-Tillamook Guides Association • Board of Directors-Oregon Guides & Packers**

The intent to gather accurate information for the management decision is sound.

Respectfully,

Tim E Marshall

cc: Carl E. Moses

RECEIVED
MAR 04 1994

Ans'd.....

March 1, 1994

Representative Carl E. Moses, Chair
House Fisheries Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

STATE
MARINE
BOARD

Dear Representative Moses,

I understand the Alaska Legislature is considering a bill, HB-496, to establish a license requirement for guides. I've received and reviewed a copy of the bill and the sponsor statement by Rep. Bill Williams.

In Oregon, the Marine Board is the responsible agency for the registration of outdoor outfitters and guides. We've been in the business of registering guides for the past 10 years, and currently have over 1,000 individual registrations.

If my reading of the sponsor's statement is correct, the primary goal of this bill is to collect and gather data on the number of guides, clients served, areas of operation, and so forth. I think this is a reasonable means of gathering factual data which can be used to monitor growth and provide for future management.

The sponsor's statement also indicates that the goal of the program is that it be "fiscally self-sustaining", ie: pay for itself. As an agency that functions entirely on user fees, I can also support this goal. However, I note the bill proposes a significant fee differential for residents (\$200) versus nonresidents (\$600).

We are sensitive to this differential as a result of recent legislation in 1993 that sought to level the playing field with border states that were charging significant differences between residents and nonresidents. Oregon's registration fee (\$50 a year) covers the cost of our program.

Our fee is the same for residents and nonresidents, provided the nonresident comes from a state that does not charge a differential fee. For residents of states that charge a differential fee, we are obligated to likewise charge them the same fee that state charges an Oregon resident.

As Alaska considers a new guide registration program, I would encourage you to charge one uniform fee, since this is in effect a business license. If the goal is a self sufficient "user fee" program aimed at gathering data, then it would seem appropriate to charge a uniform fee and spread the cost fairly among all registrants since there is no higher cost associated with processing a nonresident application than one from a resident guide.



435 Commercial St. NE
Salem, OR 97310-0650
(503) 378-8587
FAX (503) 378-4597

Rep. Carl Moses
page 2

The seasonal nature of guiding makes it a mobile business, and we have many Oregon guides that provide services in other western states, including Alaska. While I believe they would support a licensing requirement, I know from our experience that they'll want a level playing field.

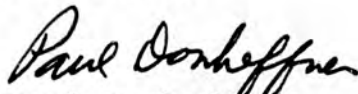
I'm enclosing a copy of Oregon's guide registration program statute for your information. The Washington Legislature recently adopted a similar guide registration law, which requires proof of first aid training and \$300,000 liability insurance. Washington eliminated the fee differential between residents and non-residents. Idaho also has a comprehensive guide licensing program, and does not discriminate with higher non-resident fees.

In summary, HB-496 seems like a reasonable approach to gathering data on the nature of the guiding industry in Alaska. However, I hope you will consider a level fee structure that reflects the actual cost of the program spread fairly among all licensees.

If I can answer any questions or provide any assistance to you, your committee staff or the Department of Fish and Game regarding our program, please let me know.

Thank you for your consideration.

Sincerely,



Paul Donheffner
Director

cc: Representative Bill Williams

Chapter 704

1993 EDITION

Outfitters and Guides

GENERALLY

- 704.010 Definitions
- 704.020 Registration required; liability insurance; fees
- 704.025 Reciprocity for licensees of State of Washington
- 704.030 False statements in registration application prohibited; special requirements for use of motorboat
- 704.040 Revocation of registration; restriction on registration application after revocation
- 704.050 Cancellation of liability insurance; notice to board; suspension of registration

ADMINISTRATION

- 704.500 Rules
- 704.510 Outfitters and Guides Account
- 704.520 Board to submit list of registrants to tourism promotion agency
- 704.525 Advisory committee; membership; duties

PENALTIES

- 704.900 Civil penalties; procedure
- 704.990 Criminal penalties

CROSS REFERENCES

Denial, suspension or revocation of license prohibited solely because of criminal conviction, 670.280
License required for ocean charter vessel operation, 830.435

OCCUPATIONS AND PROFESSIONS

GENERALLY

704.010 Definitions. As used in this chapter:

(1) "Board" means the State Marine Board.

(2) "Employee" means an individual who, in exchange for compensation or other pecuniary gain, provides outfitting and guiding services exclusively under the direction, supervision and control of an outfitter and guide or an ocean guide.

(3) "Ocean guide" means any individual who carries passengers for hire for outdoor recreational activities only on the waters of the Pacific Ocean over which the State of Oregon has jurisdiction and who possesses therefor a valid United States Coast Guard vessel operator license.

(4) "Outdoor recreational activities" include, but are not limited to, boating, angling, hunting, jeep touring, backpacking, alpine mountain climbing, camping, trips utilizing pack animals, dog sled trips, helicopter skiing, whitewater float trips, rafting trips, drift boat trips, kayak trips, inflatable canoe trips and canoe trips. The duration of any outdoor recreational activities may be for a few hours or for several days or weeks.

(5)(a) "Outfitter and guide" means any person:

(A) Who provides, or who offers to provide, for compensation or other pecuniary gain:

(i) Outfitting and guiding services in Oregon; or

(ii) Outfitting and guiding services and either equipment, supplies, livestock or materials for use in Oregon; or

(B) Who holds one or more federal permits for commercial outfitting and guiding services for use in any forest or wilderness or on any river in Oregon.

(b) "Outfitter and guide" does not include:

(A) An ocean guide or an employee of an outfitter and guide or ocean guide; or

(B) An individual who, for compensation or other pecuniary gain, provides outfitting and guiding services for the conduct of outdoor recreational activities exclusively upon property owned or controlled by the individual.

(6) "Outfitting and guiding services" include, but are not limited to, leading, protecting, instructing, training, cooking, packing, guiding, transporting, supervising, interpreting or otherwise assisting any person in the conduct of outdoor recreational activities. The rental of equipment alone

does not constitute outfitting and guiding services.

(7) Outfitting and guiding services are not offered or provided for compensation or pecuniary gain if:

(a) No individual receives any dues, fee, salary, commission, bonus, tip, compensation, equipment, materials, livestock, supplies, rental payment, amortization payment, depreciation payment or other financial gain; and

(b) No money or other remuneration is in any manner paid or collected except as a sharing by trip participants of the costs or expenses for the trip. [1983 c.655 §1]

704.020 Registration required; liability insurance; fees. (1) Any person who acts, or who offers to act, as an outfitter and guide must first register with the board. Each registration shall be submitted annually on a form provided by the board and shall include the following information:

(a) The name, residence address, and residence telephone number of the person providing outfitting and guiding services, and all business names, addresses and telephone numbers under which outfitting and guiding services are provided.

(b) If the outfitting and guiding services are to be performed in the business name of an individual, proof of possession of a current certificate issued to the individual:

(A) By the American Red Cross upon completion of its multimedia course; or

(B) Upon completion of any equivalent medical or American Red Cross training course approved by the board.

(c) If the outfitting and guiding services are to be performed in the business name of a person other than an individual, the outfitter and guide must provide the names of all employees, agents and parties in interest who physically provide, or who directly assist in physically providing, outfitting and guiding services in Oregon, together with the affidavit of the outfitter and guide that each such employee, agent or party in interest possesses a current certificate issued to the employee, agent or party in interest:

(A) By the American Red Cross upon completion of its multimedia course; or

(B) Upon completion of any equivalent medical or American Red Cross training course approved by the board.

(d) A description of:

(A) The outfitting and guiding services, and any equipment, supplies, livestock and materials provided by the outfitter and guide;

(B) The geographic area in which the outfitter and guide provides the outfitting

and guiding services, and any equipment, supplies, livestock and materials; and

(C) The experience of the outfitter and guide in providing the outfitting and guiding services, and equipment, supplies, livestock and materials.

(e) Proof that the outfitter and guide has liability insurance covering occurrences by the outfitter and guide, and the employees of the outfitter and guide, which result in bodily injury or property damage. Such insurance shall be not less than the following amounts:

(A) \$300,000 per occurrence general liability coverage; or

(B) Bodily injury liability coverage of at least \$100,000 per person to a total of \$300,000 per occurrence, and \$10,000 property damage per occurrence.

(f) Certification by the outfitter and guide that the outfitter and guide will maintain the insurance required by paragraph (e) of this subsection continuously in full force and effect for a period of not less than one year from the date the certificate of registration described in this section is issued by the board.

(g) The affidavit of the outfitter and guide stating that for a period of not less than 24 months immediately prior to making the registration application the outfitter and guide and each person who provides or assists in directly providing outfitting and guiding services:

(A) Have not been convicted of:

(i) Any violation of ORS 496.992 (2); or

(ii) Any violation of the wildlife laws which occurred while acting as an outfitter and guide and which resulted in court ordered revocation of the hunting or fishing license of the outfitter and guide;

(B) Have not had an outfitting and guiding license, permit or certificate revoked by another state or by an agency of the government of the United States; and

(C) Have not been denied the right to apply for an outfitting and guiding license, permit or certificate by another state.

(2)(a) In addition to the requirements of subsection (1) of this section, a person who acts or offers to act as an outfitter and guide using motorboats to carry passengers on the waters of this state:

(A) Shall submit proof that the outfitter and guide possesses a valid United States Coast Guard vessel operator license if operating on navigable waters of the United States;

(B) Shall submit proof of liability insurance; and

(C) Shall affix to each motorboat used in providing outfitter and guide services an identifying decal issued by the board showing the year, the passenger carrying capacity and such other information as the board may prescribe.

(b) The registration and boat decals for each outfitter and guide who uses a motorboat to carry passengers on the waters of this state expire on December 31 of each calendar year.

(3) Each annual registration shall be accompanied by a fee as follows:

(a) For resident persons, \$50.

(b) For nonresident persons who reside in a state that requires residents of the State of Oregon to pay a license fee, registration fee or other fee or charge in excess of \$50 to act as an outfitter and guide in that state, the same fee or other charge as is charged the residents of the State of Oregon to act as an outfitter and guide in the state where the nonresident applicant resides. If the state in which such a nonresident applicant resides makes distinctions in fees or charges based on the type of outfitter and guide service performed and requires residents of the State of Oregon to pay fees or charges accordingly, the board shall make and apply those same distinctions and require the nonresident applicants to pay the corresponding fees or charges.

(c) For nonresident persons other than those referred to in paragraph (b) of this section, \$50.

(4) Upon the submission to the board of the appropriate fees prescribed in this section and the registration information required by this section, the board shall issue to the applicant an Oregon Outfitter and Guide certificate of registration. The board shall also issue to each registrant proof of compliance with the requirements of this section, which the registrant must have in possession and submit for examination by any person authorized to enforce this chapter while the registrant is engaged in providing outfitting and guiding services. [1983 c.655 §2; 1985 c.452 §1; 1987 c.400 §1; 1993 c.123 §1; 1993 c.256 §1]

Note: Section 4, chapter 256, Oregon Laws 1993, provides:

Sec. 4. (1) Notwithstanding any other provision of this chapter [ORS chapter 704], the registration of any outfitter and guide who uses motorboats to carry passengers on the waters of this state expires on December 31, 1993.

(2) In accordance with any applicable provision of ORS 183.310 to 183.550, the board may provide for outfitter and guide registration for periods of less than one year and prorated fees therefor, or may issue prorated refunds or may prorate the registration fee in the subsequent year for any person whose registration was terminated by subsection (1) of this section. [1993 c.256 §4]

704.025 Reciprocity for licensees of State of Washington. (1) The fees required under ORS 704.020 do not apply to outfitters and guides who provide outfitting and guiding services on the Columbia River and who possess a valid license from the State of Washington as required under this section. Reciprocity is provided for outfitting and guiding services on the Columbia River. The right of outfitters and guides to conduct outfitting and guiding services on the waters of the Columbia River where that river forms the boundary line between the State of Oregon and the State of Washington by the holder of a valid Oregon outfitter and guide registration or a valid Washington guide license in accordance with the outfitting and guiding laws of each respective state is hereby recognized and made lawful.

(2) The purpose of this section is to avoid the conflict, confusion and difficulty of an attempt to find the exact locations of the state boundary in or on the waters of the Columbia River while providing outfitting and guiding services. Reciprocity under subsection (1) of this section is contingent upon passage of comparable legislation by the legislature of the State of Washington addressing the establishment of minimum guide registration or licensing requirements in the areas of first aid training and liability insurance coverage. [1993 c.123 §§3,4]

704.030 False statements in registration application prohibited; special requirements for use of motorboat. (1) No person shall make any false statement of material fact submitted pursuant to ORS 704.020.

(2) No outfitter and guide who uses a motorboat to carry passengers on the waters of this state shall carry passengers in excess of the passenger capacity for which insurance is obtained pursuant to ORS 704.020.

(3) No outfitter or guide shall use a motorboat to carry passengers on navigable waters of the United States without the license and decal required by ORS 704.020 (2). [1983 c.655 §5; 1993 c.256 §2]

704.040 Revocation of registration; restriction on registration application after revocation. (1) When any person is convicted of any violation of ORS 704.020 or 704.030 or any rule promulgated pursuant to ORS 704.500, forfeits bail in connection with any such offense, or pleads nolo contendere to any such offense, the court having jurisdiction of the offense may order the board to revoke the certificate of registration issued to that person pursuant to ORS 704.020.

(2) When a court orders revocation of a certificate of registration pursuant to this section, the court shall take up the certifi-

cate of registration and forward it with a copy of the revocation order to the board. Upon receipt thereof, the board shall cause revocation of the certificate of registration in accordance with the court order.

(3) A person who has had a certificate of registration revoked pursuant to this section is ineligible to register under ORS 704.020 for a period of 24 months from the date the court ordered the revocation.

(4) A person who has been convicted of failure to comply with ORS 704.020 is ineligible to register under ORS 704.020 for a period of 24 months from the date of the conviction. [1983 c.655 §7; 1989 c.586 §1]

704.050 Cancellation of liability insurance; notice to board; suspension of registration. (1) If an insurance company cancels or refuses to renew insurance for an outfitter and guide required by ORS 704.020, the insurance company, not less than 30 days prior to the effective date of termination of the coverage, shall notify the board in writing of the termination and its effective date.

(2) Upon receipt of an insurance coverage termination notice, the board shall send written notice to the outfitter and guide that on the effective date of the insurance coverage termination, the board will suspend the certificate of registration of the outfitter and guide unless proof of insurance required by ORS 704.020 is filed with the board prior to the effective date of the proposed insurance coverage termination.

(3) The board may suspend the certificate of registration issued to an outfitter and guide if the outfitter and guide fails to maintain in full force and effect the insurance required by ORS 704.020. A certificate of registration that has been suspended pursuant to this section may not be reinstated until proof of insurance required by ORS 704.020 has been filed with the board. [1983 c.655 §8]

ADMINISTRATION

704.500 Rules. In accordance with any applicable provisions of ORS 183.310 to 183.550, the board may promulgate rules to carry out the provisions of this chapter. [1983 c.655 §3]

704.510 Outfitters and Guides Account. The Outfitters and Guides Account is established in the General Fund of the State Treasury. Except as otherwise provided by law, all moneys received by the State Marine Board pursuant to ORS 704.020 shall be paid into the State Treasury and credited to the account. All moneys in the account are appropriated continuously to the board to carry out the provisions of this chapter. [1983 c.655 §4; 1989 c.586 §6]

704.520 Board to submit list of registrants to tourism promotion agency. The board will submit annually to the state agency given the responsibility of state tourism promotion a registration list of outfitters and guides and the following information:

(1) The name, business names, addresses and telephone numbers under which outfitting and guiding services are provided;

(2) A description of the outfitting and guiding service;

(3) The geographic area in which the outfitting and guiding service is provided; and

(4) The experience of the outfitter and guide in providing the outfitting and guiding service. [1983 c.655 §9]

704.525 Advisory committee; membership; duties. (1) The board shall appoint an advisory committee to provide advice to the board on various matters regarding the implementation of this chapter. The committee shall be composed of members appointed as follows:

(a) Two members from among those individuals recommended by the Oregon Guides and Packers.

(b) One member from among those individuals recommended by the McKenzie River Guides.

(c) One member from among those individuals recommended by the Eastern Oregon Guides.

(d) One member from among those individuals recommended by the Rogue River Outfitters.

(e) One member from among those individuals recommended by the Deschutes River Public Outfitters.

(f) One member from among those individuals recommended by the Rogue River Guides Association, Inc.

(g) One member from among those individuals recommended by the Tillamook Guides Association.

(h) Three public members selected by the board.

(2) In addition to such other duties as the board may prescribe, the advisory committee shall provide advice and recommendations to the board regarding:

(a) Methods of improving communication between the board and the guiding and outfitting industry.

(b) The need for competency testing of guides and outfitters.

(c) Refinements of the definitions of guides and outfitters.

(d) Adequacy of liability insurance coverage.

(e) Identifying decals for motorboats used by guides in providing outfitter and guide services.

(f) Registration reciprocity for guides conducting outfitting and guiding services on the Snake and Columbia Rivers. [1989 c.586 §4; 1993 c.256 §5]

PENALTIES

704.900 Civil penalties; procedure. (1) In addition to any other penalty provided by law, the board may impose a civil penalty for failure to comply with ORS 704.020 or for violation of ORS 704.030.

(2) Any civil penalty under this section shall be imposed in the manner provided by ORS 183.090.

(3) Notwithstanding ORS 183.090, the person to whom the notice is addressed shall have 30 days from the date of service of the notice in which to make written application for a hearing before the board.

(4) The board shall adopt rules implementing these provisions, including a schedule of civil penalties. The civil penalty for each violation shall not exceed \$500.

(5) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the board considers proper and consistent with the public health and safety.

(6)(a) In imposing a penalty pursuant to the schedule adopted pursuant to this section, the board shall consider the following factors:

(A) Any prior violations of ORS 704.020 or 704.030.

(B) The immediacy and extent to which the violation threatens the public health or safety.

(b) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the board determines to be proper and consistent with the public benefit. Upon the request of the person incurring the penalty, the board shall consider evidence of the economic and financial conditions of the person in determining whether a penalty shall be remitted or mitigated.

(7) All penalties recovered under this section shall be paid into the State Treasury and credited to the Outfitters and Guides Account. [1989 c.586 §3; 1991 c.734 §93]

704.990 Criminal penalties. (1) Failure to comply with ORS 704.020 is a Class B misdemeanor.

(2) Violation of ORS 704.030 is a Class B
misdemeanor. [1983 c.655 §6]

OCCUPATIONS AND PROFESSIONS

SCRIPT

**House Special Committee on Fisheries
March 4, 1994**

Good morning. Today is Friday, March 4 and this is a meeting of the House Special Committee on Fisheries. The time is (give time). Will the secretary please take the roll.

Today we are going to hear HB 496 - An Act relating to sport fish guiding. We have previously heard this bill and teleconferenced the hearing.

There are new materials for your packets and a list describing the items is with your packets.

I believe Representative Williams' aide would like to speak to an amendment offered by Representative Williams.

Go ahead, Pete.

I would entertain a motion to adopt Representative Williams' amendment. We will call it amendment #1.

(Hopefully you can adopt it.)

(From here, I am not sure how you would like to proceed. I think you should let Gail speak to her amendments and then see which ones you are willing to adopt.)

(The bill should be moved from committee.)

Adjournment