

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2302 SCOMM 95: HOUSE SPEC. COMM. ON FISHERIES 1995-1996

SCOMM

95:19

HB 141

Sec. 2. Page 1 line 11:

delete "a successor is qualified to serve on the board" and replace with "an appointed successor's term begins"

Sec. 3. TRANSITION. Notwithstanding 16.05.221 (d):

(a) The expiration date of the terms of the persons serving on the Board of Fisheries on Jan. 1, 1995, is January 31 of the calendar year in which the term expires.

(b) The terms of members appointed to the Board after January 1, 1995, other than terms of members appointed to fill the balance of an unexpired term, shall begin upon the expiration of the predecessors term, and expire three calendar years later on June 30.

Post-It™ Fax Note		7671	Date		# of pages
To	GEORGE		From	AMY	
Co./Dept.			Co.		
Phone #			Phone #	4230	
Fax #	2029		Fax #	4956	

State of Alaska
Office of the Governor

TONY KNOWLES
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



Bob King
Press Secretary
Claire Richardson
Deputy Press Secretary
907-465-3500
FAX: 907-465-3533

FOR IMMEDIATE RELEASE: March 29, 1996

96-077

KNOWLES SIGNS THREE BILLS INTO LAW

Three Strikes and You're Out, Crimes against Officers, Fish Board Terms

Governor Tony Knowles signed legislation today which would crack down on repeat criminal offenders, stiffen penalties for crimes against peace officers, and de-politicize fish board appointments. All three bills take effect June 26, 1996.

Known as the "three-strikes-and-you're-out" bill, **HB 38** would put third time convicts of the most serious crimes such as murder, rape and felony robbery, behind bars for up to 99 years. Sponsored by Rep. Con Bunde (R-Anchorage), **HB 38** passed the Senate unanimously and the House 29-8.

"This bill makes sure that criminals who have committed the most serious felonies stay behind bars," Knowles said during a bill signing ceremony in his office this morning. "But it's not automatically triggered. Unlike other states, our 'three strikes' provision requires prosecutors to carefully review a case before filing a notice of intent for the law to apply."

The governor also signed **HB 127** which increases penalties for crimes against police, correctional officers and firefighters. Sponsored by Rep. Pete Kelly, (R-Fairbanks), the measure will increase felony sentences from 5 to 7 years and sentences for fourth degree assault would increase from 30 to 60 days.

Knowles also signed **HB 141** which changes the appointment dates and terms of members of the Board of Fisheries to insulate them from political pressure. Sponsored by Rep. Alan Austerman (R-Kodiak), the bill changes the beginning date of fish board terms from February 1 to July 1. The change eliminates the current situation in which board members have to vote on issues prior to legislative confirmation, making their votes an issue in the confirmation process. **HB 141** was unanimously approved by both the House and the Senate.

"This needed change in the law was recommended by my transition team," Knowles said as he signed the bill. "I would like to thank Lt. Governor Fran Ulmer, my fisheries transition term co-chairs Ben Ellis, Kevin O'Leary and Mary Pete, and Stosh Anderson of Kodiak for spearheading that effort."

**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

January 24, 1995

SUBJECT: Appointment of members of the Board of Fisheries
(Work Order No. 9-LS0105F)

TO: Representative Alan Austerman
Attn: Amy Daugherty

FROM: George Utermohle *GU*
Legislative Counsel

Enclosed is a draft of a bill amending the procedure and timing for appointment of members to the Board of Fisheries.

This bill addresses a sensitive area of interaction between the executive branch and the legislative branch. The power to appoint is an executive function. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). The power to confirm executive appointments is an executive power delegated to the legislature by the Alaska Constitution. Id. Article III, sec. 26 of the Alaska Constitution states:

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

The extent of the legislative power in the area of appointments, confirmation, and removal will be narrowly construed.

Two provisions of this bill may impinge on the appointment power of the governor.

First, the establishment of dates by which the governor must make appointments to fill present or anticipated vacancies on the Board of Fisheries (sec. 2) may exceed the legislature's power by placing deadlines for appointment on the governor. On the other hand, the legislature certainly has a legitimate interest in a smooth and timely confirmation process and thus should

Representative Alan Austerman

January 24, 1995

Page 2

receive the names of appointees in time to conduct an appropriate review of the appointee before having to confirm the appointee.

Second, the transitional provision of the bill (sec. 3) extends the current terms of the present members of the Board of Fisheries by five months. This provision impinges on the governor's power by potentially requiring the governor to keep a member on the Board of Fisheries longer than otherwise would be necessary. Because the members of the board may be removed only for cause, the governor cannot remove them without a good reason. The governor is stuck with a member of board until his or her term expires. By extending the terms of the existing members of the board, there is a risk that the governor may be compelled to put up with a person on the board whom the governor wishes to replace. Though this problem will disappear once the terms of the present board members expire, within the three or four years after this bill takes effect, there is a possibility during this time that the governor may object to having one or more members of the board serve an additional five months on the board. It will be essential that the governor is content with how the transition from the present law to the new law is accomplished.

The conflicting interests at issue here will require close cooperation with the executive branch to reach a compromise that appropriately balances the interests of the two branches of government. Without the acquiescence of the governor to the provisions of this bill, there is a risk that the governor may veto this bill because it interferes with the powers of the executive branch

If I may be of further assistance, please advise.

GU:klb:pl
95-005.klb

Enclosure

STATE OF ALASKA - OFFICE OF THE GOVERNOR

Boards and Commissions Office

Membership Roster

(037) FISHERIES

Member	Appointed	Reappointed	Term Exp.
Trefon Angasan Public Bristol Bay Native Corporation P.O. Box 100220 Anchorage, AK 99510 Work Phone - (907) 278-3602 FAX - (907) 276-3924	01/31/92	02/09/95	01/31/98
Dick H. Bower, Sr. Public P.O. Box 3662 Soldotna, AK 99669 Home Phone - (907) 262-7132 FAX - (907) 262-7132	02/04/94		01/31/97
Larry Edfelt Public 1212 Pike Court Juneau, AK 99801 Home Phone - (907) 780-4780 FAX - (907) 463-3475	07/23/91	01/31/93	01/31/96
Larry J. Engel Public -- Vice-Chair P.O. Box 197 Palmer, AK 99645 Home Phone - (907) 745-4132	02/04/94		01/31/97
Dick Jacobsen Public P.O. Box 54 Sand Point, AK 99661 Home Phone - (907) 383-2042 FAX - (907) 383-5370	01/31/93		01/31/96
Frank Rue Commissioner/Fish and Game/ex officio secretary Acting Commissioner Department of Fish & Game P.O. Box 25526 Juneau, AK 99802-5526 Work Phone - (907) 465-4100	01/13/95		
Virgil L. Umphenour Public 2400 Davis Road Fairbanks, AK 99701 Work Phone - (907) 456-3885 FAX - (907) 456-3889	07/22/94		01/31/96
John R. White Public P.O. Box 190 Bethel, AK 99559	02/09/95		01/31/98



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

Press Release 3/11/96

CSHB 141 passed the House today unanimously in its final concurrence vote. "I am pleased," said Rep. Austerman, "the passage of this bill will help insulate the Board of Fisheries from the legislative politics which we've seen increase in recent years."

CSHB 141 changes the beginning service date of a Board of Fisheries member to July 1 and sets the appointment date closer to legislative confirmation. With CSHB 141, legislators will confirm an appointee based on qualifications, not voting record.

This change in appointment and term dates has had the support of fishing groups throughout the state. This concept was also unanimously endorsed by a group of former Board of Fisheries chairmen who met specifically to address what would help that board process.

"This bill has been endorsed by Governor Knowles and I expect him to sign it within the next couple of weeks," said Austerman.



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

SPONSOR STATEMENT

CSHB 141

CS House Bill 141 shifts the appointment and term dates of the Board of Fish members in an effort to depoliticize the confirmation process. The appointment date is moved closer to the confirmation date to help ensure that appointees are confirmed by the legislature prior to having participated at a Board of Fish meeting. Accordingly, the term date is moved from January 31 to July 1st. With CSHB 141, legislators will confirm an appointee based on qualifications, not voting record.

There are instances where changing the term cycle, as in CSHB 141, will not insulate Board of Fish appointees from the confirmation process: where a vacancy occurs before a term expires or the legislature has not confirmed an appointee of the Governor. In these cases, the Governor makes a new appointment within 30 days and those individuals serve on the board until possible confirmation during the next legislative session.

The transition to the new term cycle is addressed in Section 3 of CSHB 141. As presently written, CSHB 141 will extend the terms (to 3 years 5 months) of whichever members are appointed after January 1, 1995. Mr. Utermohle, our drafting attorney, advised against shortening the terms to 2 years, 5 months in this transitory period.

HB 141 brings forth one of the recommendations of the Governor's Transition Team on Fisheries. This group, which convened in Kodiak on January 5 and 6 of last year, was comprised of commercial, sport, and subsistence fishers.



Cordova District Fishermen United

P.O. Box 939

Cordova, Alaska 99574

(907) 424-3447 FAX (907) 424-3430

March 22, 1995

House of Representatives
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

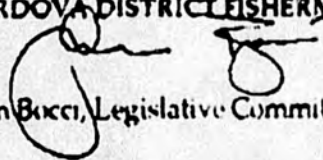
Dear Legislator:

On behalf of Cordova District Fishermen United (CDFU), I am pleased to support House Bill 141—An Act relating to the appointment of members of the Board of Fisheries. CDFU is a basic supporter of the lay Board of Fish process as it exists today. We do not believe that the Board of Fish requires extensive modifying—as some other bills in the legislature seek to do. On the contrary, we believe the process requires only some comparably minor periodic adjustments to meet changing resource management needs.

HB141 presents the opportunity to make some of those adjustments. In fact, HB141 will make some adjustments we've been seeking for years such as requiring confirmation before participation.

We urge you to support this bill and thank you for your consideration.

Sincerely,
CORDOVA DISTRICT FISHERMEN UNITED


John Bucci, Legislative Committee Chair

cc: Full House of Representatives
Senator Georgianna Lincoln

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Fisheries

Alaska's fishery resources are critical to the local and statewide economies of the state and to the personal lives of Alaskans. Besides providing more jobs than any other resource or industry in the state, our fishery resources are central to the very sustenance and lifestyle of most Alaskans. Because fish play such a vital role in our lives, and because fisheries in Alaska are biologically complex, the management of this resource naturally generates widespread interest and debate.

RECOMMENDATIONS

BOARD OF FISHERIES

- Retain the basic structure of the existing Board of Fisheries (BOF).
 - Maintain a BOF comprised of lay citizens.
 - Ensure broad geographic interest and expertise by members so that the BOF represents the diversity of interests and regions of the state.
 - Provide that individual BOF seats should not be designated for specific interest groups.
- Consider whether to establish additional Boards, such as a separate BOF for management of ground-fish and shellfish and/or separate regional Boards in addition to a statewide Board.
- Make statutory changes regarding BOF member terms in order to depoliticize the confirmation process.
 - Appoint full term BOF members during the first ten days of April, with confirmation by the end of the legislative session.
 - Seat newly confirmed BOF members on July 1 each year.
 - Provide for 3-year staggered terms as currently is done.
 - Fill vacancies for unexpired terms within 30 days.
- Fine tune the current process for reviewing BOF proposals.
 - Retain the current 3 year cycle for review of agenda topics.
 - Improve the agenda change and petition criteria and the process for out-of-cycle issues of importance.
- Reduce the number of proposals reviewed by the BOF by streamlining the proposal process. Consider methods to reduce the number of proposals taken up by the BOF, but do not restrict the public from offering proposals.
- Conduct BOF meetings more effectively through:
 - Management of testimony according to topic.
 - Making all proposal information available to the public 30 days before the meeting.
 - Strictly prohibiting personal advocacy by ADF&G employees at BOF meetings.
 - Increasing use of electronic bulletin boards for information about meetings.
- Consider moving the BOF administratively out of ADF&G and into the Governor's Office or another administrative unit.

9-LS0105\G
Utermohle
2/24/95

CS FOR HOUSE BILL NO. 141(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered:
Referred:

Sponsor(s): **REPRESENTATIVES AUSTERMAN, Grussendorf, Elton**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the appointment of members of the Board of Fisheries."**

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

3 *** Section 1.** AS 16.05.221(c) is amended to read:

4 (c) Members of the [BOARD OF FISHERIES OR] Board of Game serve
5 staggered terms of three years and until a successor is appointed. An appointment to fill
6 a vacancy in the membership of the [BOARD OF FISHERIES OR] Board of Game shall
7 be made in the same manner as the original appointment and for the balance of the
8 unexpired term.

9 *** Sec. 2.** AS 16.05.221 is amended by adding a new subsection to read:

10 (d) Members of the Board of Fisheries serve staggered terms of three years and
11 until a successor is appointed and the successor's term begins. The terms of members of
12 the board begin on July 1. Notwithstanding AS 39.05.080(1), by April 1 of the calendar
13 year in which the term expires, the governor shall appoint a person to fill a vacancy on
14 the board due to expiration of the term of a member of the board and submit the name of

1 the person to the legislature for confirmation. If a vacancy arises on the board other than
2 by the expiration of a term, the governor shall, within 30 days after the vacancy arises,
3 appoint a person to serve the balance of the unexpired term and submit the name of the
4 person to the legislature for confirmation. A person appointed to fill the balance of an
5 unexpired term shall serve on the board from the date of appointment until the earlier of
6 the expiration of the term or the failure of the legislature to confirm the person under
7 AS 39.05.080.

8 * Sec. 3. TRANSITION. Notwithstanding AS 16.05.221(d), added by sec. 2 of this Act, the

9 (1) expiration date of the terms of the persons serving on the Board of Fisheries
10 on January 1, 1995, is January 31 of the calendar year in which the term expires;

11 (2) terms of persons appointed to the Board of Fisheries after January 1, 1995,
12 other than the terms of persons appointed to serve the balance of an unexpired term, begin upon
13 the expiration of the predecessor's term and expire three calendar years later on June 30.

CSHB 141(FSH):

MADAME SPEAKER, I MOVE AND ASK UNANIMOUS CONSENT THAT THE MEMBERS OF THE HOUSE GO INTO THE LIMBO FILE IN ORDER THAT WE MAY CONSIDER COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 141 FISHERIES.

MADAME SPEAKER, I WILL BRIEFLY EXPLAIN THE CHANGES MADE IN THE SENATE COMMITTEE SUBSTITUTE.

The Senate Resources Committee made some minor changes that clean up the language of in Section 2 of the bill.

Madame Speaker, I have checked with the sponsor of CSHB 141(FSH) and he concurs with the changes made by Senate Committee Substitute for Committee Substitute for House Bill No. 141(Resources) .

WITH THAT, MADAME SPEAKER, I MOVE THAT THE HOUSE CONCUR IN THE SENATE COMMITTEE SUBSITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 141 RESOURCES, THUS ADOPTING SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 141 RESOURCES, AND URGE THE MEMBERS TO VOTE YES.



Official Business

Alaska State Legislature

SENATE

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3701

CONCUR MESSAGE

February 29, 1996

MESSAGE TO THE HOUSE

MADAM SPEAKER:

The Senate passed CS FOR HOUSE BILL NO. 141(FSH) with the following amendment:

SENATE CS FOR CS FOR HOUSE BILL NO. 141(RES)

"An Act relating to the appointment of members of the Board of Fisheries."

and returned for consideration.

A handwritten signature in cursive script, appearing to read "Nancy Quinto", written over a horizontal line.

Nancy Quinto
Secretary of the Senate

AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 141(FSH)

- 1 Page 1, line 15, after "confirmation":
- 2 Insert "; if the legislature does not confirm the person appointed by the governor, the
- 3 governor shall, as soon as possible, appoint a new person to fill the vacancy on the board and
- 4 submit the name of the new person to the legislature for confirmation"

AMENDMENT #2

OFFERED IN THE SENATE

TO: CSHB 141(FSH)

- 1 Page 1, line 14:
- 2 Delete "a vacancy"
- 3 Insert "the vacancy that will arise"

- 4 Page 2, line 1:
- 5 Delete "other than by the expiration of a term"

#1
AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 141(FSH)

- 1 Page 1, line 11:
- 2 Delete "and until a successor is appointed and the successor's term begins"



REPRESENTATIVE ALAN AUSTERMAN Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

MARCH 24, 1995

PRESS RELEASE PRESS RELEASE PRESS RELEASE

AUSTERMAN'S BOARD OF FISH BILL UNANIMOUSLY PASSES THE HOUSE

The House of Representatives unanimously passed CSHB 141 with a 39-0 vote.

"I'm very pleased" said Austerman, prime sponsor of the legislation.

Austerman's bill shifts the appointment and term dates of the Board of Fish members in an effort to de politicize the confirmation process. CSHB 141 moves the appointment date closer to the confirmation date to help ensure that appointees are confirmed by the legislature prior to having participated at a Board of Fish meeting.

"With this bill legislators will confirm an appointee based on qualifications, not voting record" stated Austerman.

There are instances where changing the term cycle, as in CSHB 141, will not insulate Board of Fish appointees from the confirmation process: where a vacancy occurs before a term expires or the legislature has not confirmed an appointee of the Governor. In these cases, the Governor makes a new appointment within 30 days and those individuals serve on the board until possible confirmation during the next legislative session.

This is one of the recommendations of the Governor's Transition Team on Fisheries.



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

March 24, 1995

The Honorable Alan Austerman
Alaska State House of Representatives
State Capitol, Room 434
Juneau, Alaska 99801-1182

Representative Austerman:

UNITED FISHERMEN OF ALASKA SUPPORTS CS HB 141.

UFA feels that moving the appointment date closer to the confirmation date will help the process and we believe many more potential citizens will put their names forward to the Board of Fish under the new confirmation bill.

As you know, CS HB 141 was one of the recommendations made by the Governor's Fisheries Transition Team which was comprised of sport fish, charter, sport guide, subsistence, and commercial users.

United Fishermen of Alaska is requesting your support of CS HB 141.

Sincerely,


Jerry McCune
President

cc: UFA Board of Directors

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fishermen's Association • Alaska Trollers Association • Area K Seiners Association
Bering Sea Fishermen's Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association
Seafood Producers Cooperative • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association

**DIVISION OF LEGAL SERVICES
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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 25, 1995

SUBJECT: HB 141; Terms of members of the Board of Fisheries

TO: Representative Alan Austerman
Attn: Amy Daugherty

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether the provision of sec. 2 of CSHB 141(FSH), which provides that members of the Board of Fisheries shall continue to serve on the board after their term expires if a successor has not been appointed, is a significant change in current law.

The answer is no. AS 16.05.221(c) currently provides that members of the Board of Game and the Board of Fisheries shall continue to serve past the expiration of their term in the event that a successor has not been appointed. Prior to 1992, when AS 16.05.221(c) was enacted, there was no set term for members of the Board of Game and Board of Fisheries. By custom, members of those boards served were appointed to three year terms. In 1992, the legislature set the statutory term of the members of the Board of Game and the Board of Fisheries at three years and until a successor is appointed.

If I may be of further assistance, please advise.

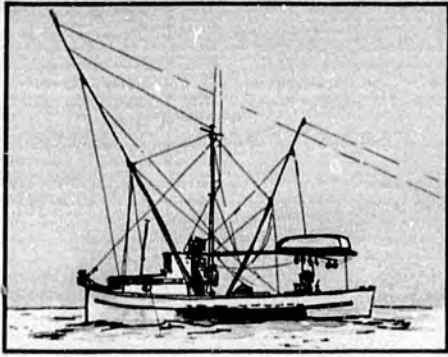
GU:klb
95-298.klb

Even though it is current law, this is still a problem w/ Halford.

Also LET HALFORD'S OFFICE KNOW THAT CSHB 21 WILL BE WAIVED THROUGH JUDICIARY STRAIGHT TO FINANCE, AFTER FISH TOMORROW!

SCOMM

95:20



Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

March 22, 1995

Representative Alan Austerman, Chairman
Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99811

Dear Representative Austerman:

The Alaska Trollers Association (ATA) opposes HB 149, which seeks to change the Board of Fisheries (Board) from a lay board to a professional board.

The state's practice of appointing Board of Fisheries members with experience in Alaska's fisheries has produced a superior fishery management program recognized coastwide. Importantly, the lay board process fosters an atmosphere of cooperation between those with a vested interest in the resource, fishermen and the state.

We stress that there is no substitute for personal experience when it comes to the development of industry regulations. However, we also acknowledge the Board of Fisheries process could be improved with some relatively minor adjustments. For instance:

- The Governor could make a greater attempt to balance Board appointments according to the statutory references "knowledge and ability in the field of action"; and, "providing diversity of interest and points of view". Alaska's fisheries are complex and diverse, and, while each fishery can't be represented, past experience has shown that a complementary mix of gears and regions can be achieved. Broad knowledge amongst Board members produces better deliberation of the issues at hand.

March 22, 1995

HB 149

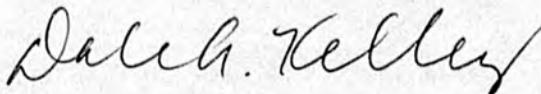
Page 2

- Board confirmations should take place prior to members serving, to reduce constituent pressure on the legislature to remove appointees based on votes relative to one or two high profile issues.
- Criteria must be established under the Ethics Act to fairly define "significant" conflict of interest, so individuals with a working knowledge of Alaska's fisheries can continue to fully participate in the Board process. The expected financial gain or loss of an individual in a fishery of 1500 permit holders would be quite different than another in a fishery of 50 permit holders. The current recusal process identifies each member's personal interests. Past chairmen have generally been good at excusing members from questionable votes, often at the request of the member themselves. Also, it should be pointed out that board members have often voted against their personal interest for conservation or fair-sharing purposes.

Finally, HB 149, as written, does not appear to consider the economic interest of the guided sportfishing industry. The State of Alaska has failed to develop a limited entry program for charterboats. The guided sportfishing industry is booming in Southeast Alaska, as evidenced by the explosive growth in the number of charterboats (225 in 1986 to 730 in 2/95). We question whether the sponsor's description of "vested economic interest" includes charterboat operators and guides.

ATA believes a lay-Board of Fisheries process helps to ensure conservation of the resource and reasonable regulations for small business operators. We encourage you to vote no on HB 149.

Sincerely,



Dale A. Kelley
Executive Director



Official Business

COMMITTEES:
Natural Resources
Legislative Council

Alaska State Legislature

Office of World Trade And State/Federal Relations

REPRESENTATIVE
RAMONA L. BARNES
District 22

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Anchorage, AK 99510
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(907) 258-8163

State Capitol
Juneau, AK 99801-1182
(907) 465-3438

SPONSOR STATEMENT

House Bill 149 would create a full-time three member Board of Fisheries to replace the 7 member part-time board that currently exists. Members would serve staggered four year terms. One member of the board would be designated by the Governor to serve as chair for a two year term. That member may be designated chairman for successive terms. All members of the board would serve at the pleasure of the Governor.

Under the terms of the bill, members would be prohibited from having a vested economic interest in fisheries, such as an interim-use permit, entry permit, commercial fishing vessel or gear, or in the processing or marketing business. Requirements that members be appointed without regard to political affiliation or geographical location of residence would be retained.

A three member board could result in significant cost savings for the State. Single members would be able to hold field hearings and then present the findings to the full board at a later time for action. Changing the size of the board could also result in a smoother appointment and confirmation process. The battle for representation on the board by various geographic districts would lessen.

FISCAL NOTE

STATE OF ALASKA

1995 LEGISLATIVE SESSION

BILL NO. HB149

Revision Date: 2/3/95

Dept. Affected: Fish and Game

Title: An Act relating to the

BRU: Boards F&G

Board of Fisheries

Component: Board Service

Sponsor: Rep. Barnes

Requester: Resource, Fish Comm.

COMPONENT SERIAL NO.

#482

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	278.6	278.6	278.6	278.6	278.6	278.6
TRAVEL	(65.0)	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
CONTRACTUAL	(15.0)	(10.0)	(10.0)	(10.0)	(10.0)	(10.0)
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	198.6	218.6	218.6	218.6	218.6	218.6

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	198.6	218.6	218.6	218.6	218.6	218.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	198.6	218.6	218.6	218.6	218.6	218.6

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	3	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This analysis assumes that the Board of Fisheries will go to a two year cycle and that hearings will be held throughout the state by one board member. The total number of hearing and regulatory meeting days will be about the same as the board now meets in regulatory session. Space costs will be slightly reduced, however printing, mailing and advertising will be approximately the same. Also, it is assumed that advisory committees will remain as is for the present time.

There are some questions about process that could increase the cost. For example, all regulatory meetings are now taped. Will hearings be taped? Having a complete record is important for legal challenges. Taping will require staff as well as board member at hearings. It may be difficult for the board to confine public testimony to hearings and not allow testimony during regulatory meetings. This could increase time and expense.

See page two for a comparison of costs.

Prepared by:	Beverly Reaume <i>BR</i>	Phone:	465-6095
Division:	Administration/Boards Support Section	Date:	2/21/95
Approved by Commissioner:	<i>Frank</i>	Date:	2-21-95
Agency:	Fish and Game		

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[illegible]

Department of Fish and Game
Analysis: House Bill 149

Background/Legislative Intent:

This legislation proposes replacing the current citizen Board of Fisheries with a professional board. Alaska's citizen boards of fish and game were instituted in response to the lack of attention paid to the concerns of Alaskans by federal managers during the territorial period of fish and wildlife management.

The problems associated with the current board system which the legislation intends to address are: 1) the political in-fighting over appointments to board seats; 2) the perception of conflict of interest associated with a board composed of people with financial interests in Alaska's fisheries resources; 3) the delay in consideration of public proposals resulting from a part-time board process; and 4) the high cost of the current board process.

Analysis of Bill/Program Effects:

This legislation would replace the current seven member, citizen Board of Fisheries with a three member, professional board. The sponsor cites the Alaska Public Utilities Commission, the Alaska Oil and Gas Commission, and the Commercial Fisheries Entry Commission as potential models for a professional board. No specific professional qualifications are required of board members by this legislation, however, they are prohibited from having a vested economic interest in a commercial fishing permit, commercial fishing vessel or gear, or involvement in any fishery resource processing or marketing business. Board members would serve staggered four year terms, be members of the exempt service, and be paid at a Step C, Range 26 rate.

The primary concern the department has with this bill is that it may further confuse the public about the separation of functions between the board and the department. It is the department's job to carry out the scientific work required to manage Alaska's fisheries resources according to the sustained yield principle. It is the board's job to distribute the opportunities to use these resources among competing beneficial users. This separation of powers is rather symbolically embodied by a citizen board and a professional department. The creation of a professional board could eliminate or blur this distinction.

Because the board is housed within the department, and because the board uses the biological information provided by the department's scientists and managers, there is already some contention that the department inappropriately influences the board's allocation decisions. The most important counter to this perception is that the board members are private citizens, members of the user groups, and not members of the department. Professional board members may also have a tendency to second guess the department's scientific information and conservation concerns and substitute their own opinions. This would further muddy the separation of function and checks and balances that the current system supplies.

Our second concern is that whatever regulatory system the state uses, it must have the support and confidence of the public. The public must believe that they are getting a fair shake and that the process is open and responsive to their concerns. Despite some criticism, the present system appears to have widespread public support. The latest evidence of this is the unanimous recommendation of the Knowles/Ulmer Fisheries Policy Transition Team that the current citizen, lay board be maintained.

Reducing the size of the board and making it a full-time body cannot guarantee an end to political in-fighting over appointments. Recreational, commercial, and subsistence fishing groups will still have intense interest in who is appointed to the board because of the essential role the board plays in allocating fish stocks. They can be expected to lobby heavily for individuals who they believe will share, or at least be sympathetic, to their interests. The smaller size of the board may even intensify lobbying efforts.

Historically, most members of the Board of Fisheries have been representatives of the commercial fishing and seafood industries. These groups have held a majority of four or five seats on the fish board since the Board of Fish and Game was divided into a fish board and a game board by Governor Hammond. Perception of conflict of interest has primarily revolved around the conflict between user groups rather than questions of individual financial gain. Recreational fishing interests, and subsistence fishing interests to a somewhat lesser extent, view the majority position of commercial seafood representation as providing an unsympathetic atmosphere for the hearing of proposals advancing their interests. This has become a major issue during the last ten years.

It appears that the major impetus for HB 149 is the conflict of interest issue. While this bill would reduce the perception that the commercial seafood industry dominates the fish board, it cannot be expected to eliminate the perception entirely. Commercial use of Alaska's abundant fisheries resources will continue to be the dominant use.

Additionally, the proposed legislation has the disadvantage of dramatically reducing public participation in the board process. This has been one of the best attributes of Alaska's fisheries regulation process. Relinquishing this opportunity should not be undertaken lightly. The loss of expertise and local knowledge among board members resulting from this would have a substantial impact on the board. Duplicating this knowledge by staff work could be very costly and probably not achieve the same level of information.

The third issue addressed by this legislation is the delay in consideration of proposals caused by the board's three year cycle. The board went to a three year cycle for several reasons. One of the most important was to provide stability to regulatory regimes and to allow time to evaluate the pros and cons of a particular regulation, especially in the contentious, major allocation battles, before bringing it up for change. In reality, board deliberations are dominated by the big allocation issues in the state: recreational versus commercial in the Cook Inlet salmon fisheries, Area M chum and sockeye interceptions, etc. These issues carry over from board meeting to board meeting. Returning to an annual cycle would invite a hearing on these issues every year just by virtue of the contentious nature of the issues. If there is a good reason to take up an issue out of cycle, the board has the flexibility to do so.

The fourth issue is cost. As the attached fiscal note demonstrates, a professional board would be more expensive than the present citizen board system.

**DIVISION OF LEGAL SERVICES
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STATE OF ALASKA**

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

MEMORANDUM

March 9, 1995

SUBJECT: Sectional Summary of HB 149, An Act relating to the Board of Fisheries.

TO: Representative Ramona Barnes

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of HB 149, An Act relating to the Board of Fisheries.

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

Section 1 of the bill amends AS 16.05.221(a) by changing the membership of the Board of Fisheries from seven to three members, providing that the governor appoint a chair of the board to serve a term of two years, and prohibiting members of the board from having a vested economic interest in fishing permits or fishing businesses.

Section 2 of the bill amends AS 16.05.221(c) by providing that the members of the Board of Fisheries shall serve four year terms.

Sections 3 and 4 of the bill amend AS 16.05.290 to provide that members of the Board of Fisheries shall receive a salary equal to step C, range 26 for Juneau. The effect of these provisions is to make the Board of Fisheries into a full time board and the members of the board into full time state employees.

Section 5 of the bill amends AS 16.05.320 by making technical amendments to the quorum requirements for the Board of Fisheries and the Board of Game.

Section 6 of the bill amends AS 39.25.110(11) to provide that the officers and employees of the Board of Fisheries are in the exempt state service.

Section 7 of the bill provides that the governor shall appoint, subject to confirmation by the legislature, three persons to serve on the Board of Fisheries and provides for initial terms.

Representative Ramona Barnes

March 9, 1995

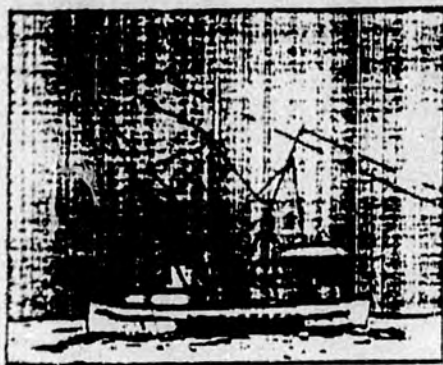
Page 2

Section 8 of the bill provides for the transition from the current Board of Fisheries to the new Board of Fisheries in the event that the effective date of the bill is not passed by the legislature.

Section 9 of the bill provides that secs. 1 - 6 of the bill take effect on July 1 following confirmation of at least two persons to serve on the new Board of Fisheries.

GU:glc

95-207.glc



Alaska Trollers Association

130 Seward St., No. 505
Juneau, Alaska 99801
(907) 586-9400
(907) 586-4473 Fax

RECEIVED
MAR 22 1995
Ans'd.....

March 22, 1995

Representative Alan Austerman, Chairman
Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99811

Dear Representative Austerman:

The Alaska Trollers Association (ATA) opposes HB 149, which seeks to change the Board of Fisheries (Board) from a lay board to a professional board.

The state's practice of appointing Board of Fisheries members with experience in Alaska's fisheries has produced a superior fishery management program recognized coastwide. Importantly, the lay board process fosters an atmosphere of cooperation between those with a vested interest in the resource, fishermen and the state.

We stress that there is no substitute for personal experience when it comes to the development of industry regulations. However, we also acknowledge the Board of Fisheries process could be improved with some relatively minor adjustments. For instance:

- The Governor could make a greater attempt to balance Board appointments according to the statutory references "knowledge and ability in the field of action"; and "providing diversity of interest and points of view". Alaska's fisheries are complex and diverse, and, while each fishery can't be represented, past experience has shown that a complementary mix of gears and regions can be achieved. Broad knowledge amongst Board members produces better deliberation of the issues at hand.

March 22, 1995

HB 149

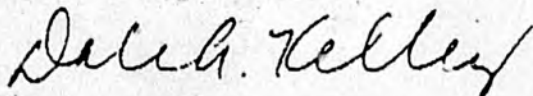
Page 2

- Board confirmations should take place prior to members serving, to reduce constituent pressure on the legislature to remove appointees based on votes relative to one or two high profile issues.
- Criteria must be established under the Ethics Act to fairly define "significant" conflict of interest, so individuals with a working knowledge of Alaska's fisheries can continue to fully participate in the Board process. The expected financial gain or loss of an individual in a fishery of 1500 permit holders would be quite different than another in a fishery of 50 permit holders. The current recusal process identifies each member's personal interests. Past chairmen have generally been good at excusing members from questionable votes, often at the request of the member themselves. Also, it should be pointed out that board members have often voted against their personal interest for conservation or fair-sharing purposes.

Finally, HB 149, as written, does not appear to consider the economic interest of the guided sportfishing industry. The State of Alaska has failed to develop a limited entry program for charterboats. The guided sportfishing industry is booming in Southeast Alaska, as evidenced by the explosive growth in the number of charterboats (225 in 1986 to 730 in 2/95). We question whether the sponsor's description of "vested economic interest" includes charterboat operators and guides.

ATA believes a lay-Board of Fisheries process helps to ensure conservation of the resource and reasonable regulations for small business operators. We encourage you to vote no on HB 149.

Sincerely,



Dale A. Kalley
Executive Director



**SENATE RESOURCES COMMITTEE
STATE SENATE
FEBRUARY 20, 1995
TESTIMONY BY BEN ELLIS
EXECUTIVE DIRECTOR
KENAI RIVER SPORTFISHING, INC.**

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS BEN ELLIS. I LIVE IN SOLDOTNA AND AM SPEAKING TODAY AS THE EXECUTIVE DIRECTOR OF KENAI RIVER SPORTFISHING, INC. OUR NONPROFIT SPORTFISHING ASSOCIATION REPRESENTS MORE THAN 400 SPORT ANGLERS. I AM SPEAKING TODAY IN TENTATIVE SUPPORT FOR SENATE BILL 49. IF WE ARE TO SUCCESSFULLY MANAGE OUR FISHERIES RESOURCE AND PROVIDE FAIR AND EQUITABLE ACCESS OF THE HARVESTABLE SURPLUS TO ALL USERS, WE MUST HAVE A BOARD THAT IS PROHIBITED FROM ANY VESTED ECONOMIC INTEREST. WE WOULD PREFER THE CURRENT LAY BOARD STRUCTURE BE MAINTAINED, BUT IF GOVERNORS CONTINUE TO APPOINT AND THE LAWMAKERS CONTINUE TO CONFIRM BOARD MEMBERS WHO WOULD HAVE DIRECT CONFLICTS OF FINANCIAL INTEREST, THEN CHANGES MUST OCCUR.

IT IS OUR BELIEF THAT WE ARE SEEING SIGNS FROM THE DEPARTMENT OF LAW THAT SUCH A CHANGE IS INEVITABLE. IT APPEARS, MORE AND MORE BOARD MEMBERS ARE BEING CONFLICTED OUT OVER FINANCIAL AND PERSONAL INTEREST. RECENTLY THE BOARD CHAIRMAN CONFIDED IN ME THAT A SPECIFIC BOARD OF FISHERIES MEETING COULD

BE IN JEOPARDY BECAUSE FOUR OF THE SEVEN BOARD MEMBERS MIGHT BE IN CONFLICT, LEAVING LESS THAN QUORUM TO DO BUSINESS.

AT THE HEART OF THIS CHANGE IS WHETHER A PROFESSIONAL BOARD CAN BRING THE EXPERTISE WHICH IS SAID TO BE NEEDED TO MAKE DECISIONS CONCERNING THE STATE'S COMPLEX FISHERIES. WHILE WE WOULD PREFER TO HAVE BOARD MEMBERS WHO ARE KNOWLEDGEABLE CONCERNING ALASKA'S FISHERIES, IT DOES NOT SEEM IMPERATIVE, ESPECIALLY IN LIGHT OF PAST BOARD DECISIONS.

WITH THE GROWING EMERGENCE OF NON-COMMERCIAL USERS IN THE STATE, CONFLICT OVER THE ALLOCATION OF THE HARVESTABLE SURPLUS OF THIS STATE RESOURCE MUST BE ADDRESSED IN A POSITIVE FORUM, ESPECIALLY AS IT RELATES TO COOK INLET. WE MUST PROVIDE A LEVEL PLAYING FIELD WHERE DECISIONS ARE MADE WHICH ARE IN THE BEST INTEREST OF ALL ALASKANS AND THE STATE. IF THAT CAN NOT BE ACCOMPLISHED BY A LAY BOARD, THEN WE BELIEVE THAT SB 49 MAY BE THE ANSWER.

THE KEY IT SEEMS IN ADDRESSING THIS PROBLEM, WHETHER WE CONTINUE WITH A LAY BOARD, OR MOVE TO A PROFESSIONAL PANEL, IS REMOVING WHAT MANY OF THE PUBLIC PERCEIVE IS A BIAS BY THE BOARD OF FISHERIES TOWARD THE FINANCIAL PROFIT OF A FEW COMMERCIAL USERS AT THE EXPENSE OF THOUSANDS OF NON-COMMERCIAL USERS. WHATEVER THE OUTCOME, WE BELIEVE THIS DISCUSSION IS NOT ONLY APPROPRIATE AT THIS TIME BUT HEALTHY. WE COMMEND THE LEGISLATURE AND ESPECIALLY SENATOR DURE PEARCE, SPONSOR OF THIS BILL, FOR THEIR INTEREST IN THIS IMPORTANT MATTER AND SETTING UP THIS IMPORTANT PUBLIC DISCUSSION. THANK YOU.

AN ALASKAN ADVENTURE

Ken

CHINOOK CHARTERS

TOM RAMISKEY

428 Tower • Ketchikan, Alaska 99901 • 907-225-9225 FEB 04 1995

February 2, 1995

Senator Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Senator Pearce,

I have long been an advocate for a professional Board of Fisheries or at least statutory revision of the Board membership criteria in a manner such that no single user group can have a majority position.

Established in 1975 "for purposes of the conservation and development of the fishery resources", the Board of Fisheries served the purpose of development well. Alaska's fishery resources are for the most part fully developed. The composition of the Board of Fisheries was, until recently, entirely commercial fishermen. And, it was the collective "expertise in the fishery" of the individual commercial fishermen appointed to the Board that was instrumental in the development of Alaska's fishery resources.

As fishery resources have become fully developed, conflicts within the commercial fishery user-group, between regional commercial fishery user-groups, sport and commercial, subsistence and commercial and sport have escalated annually Statewide. Competition among and between various user-groups for the use of a finite resource will most likely continue and become more divisive.

In the midst of the fray is a Board of Fisheries that still has a commercial use bias and which is not representative of the multiplicity of regional commercial uses let alone sport, subsistence, and personal uses. Compounding the problem, is the political appointment of persons who have a direct financial or personal interest in fishery resource use.

The Board of Fisheries served it's purpose but is ill suited to address the issues of allocation in a fair and reasonable manner that is consistent with the Constitutional mandates of common property resource use for the maximum common benefit consistent with the public interest. It is ludicrous to believe that a Board appointee with a direct interest in a fishery resource will vote against his interest.

Page 2

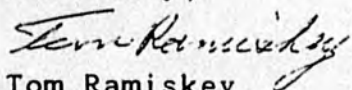
The Board of Fisheries has accomplished it's purpose and should be restructured for the purposes of conservation and allocation of fishery resources. An impartial Board is essential in matters of conservation and allocation to ensure fair and reasonable decisions. I believe that a professional Board would afford the greatest opportunity for impartiality in matters of conservation and allocation. And, I would recommend that you consider increasing the number of members to five or seven in order to reflect the unique "regionalism" that exists In Alaska.

The local advisory committee system that seems to be ignored by the Board system should be revitalized and afforded some position of consequence if a professional Board is established. The local advisory committee forum is democratic, responsive, and functions as a liaison between the public and technical experts. And, it is a forum that can and does benefit from knowledge and expertise in the fishery. Expertise in the fishery can be related to a professional Board in the form of public comment and will not be lost with the establishment of a professional Board.

Obviously, I have a personal and financial interest in fishery resource use. I have owned and operated a charter fishing service for the past nineteen years. I have been involved in the Board process since 1985. It has been frustrating and in my opinion unfair at times. But most of all, it has been the feeling of absolute futility and the realization that a lay Board comprised of a majority of commercial fishermen regulate themselves and can regulate me out of business that irritates me the most.

A professional Board may not be the most democratic according to some opinions. But, I certainly would rather take my chances with a Board that does not have a direct financial interest in fishery resource use rather than continue to get beat up in the present Board system!

Sincerely,



Tom Ramiskey

cc: Senate Resources Committee,
Senator Loren Leman, Chairman
Senator Robin Taylor
Representative Bill Williams

ADN 01 FEB 95

Pearce bills revamp Fish, Game panels

By IAN MADER
The Associated Press

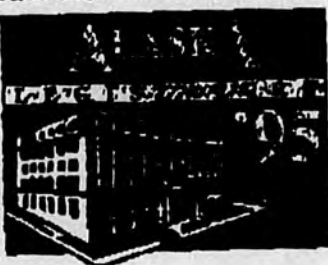
JUNEAU — Legislation by Senate President Drue Pearce would dramatically alter state boards of Fisheries and Game by barring commercial fishermen and hunting guides.

Also, three full-time commissioners would replace the seven part-time public members who currently decide how to allocate fish and game among commercial, sport and subsistence fishermen and hunters.

The proposal would attempt to "depoliticize" each panel and make them better able to handle a growing workload, the Anchorage Republican said.

Fishing and hunting groups generally

Please see Page B-3, FISH



FISH: Boards would be altered

Continued from Page B-1

oppose scrapping the lay boards, which they consider contentious but democratic, and more responsive to the public than a professional board would be.

Currently, governors are supposed to appoint members without regard to political party or regional residence. But in practice governors try to balance regions and user groups in their appointments, which must be endorsed by the legislature.

"Every year, one of the most divisive, bitter fights no matter who's the governor and who's in the legislature, are appointments to the Fisheries and Game boards," said Pearce. "Because every user group feels they are under-represented and are not getting their fair share."

Many lawmakers reserved comment until they could review Senate bills 49 and 50, introduced late last week. Pearce acknowledged it would be difficult to secure support.

"It's a major change we're proposing, and we'll just have to see what happens," she said.

Many people agree the system could be reformed, said Rep. Mark Hanley, R-Anchorage. "But everybody has a different idea about what the problems are," Hanley said Monday.

Most adamantly opposed to professional boards are commercial fishing groups, who say they have important expertise to bring to those panels.

"To bar commercial fishermen from the board, I consider that insulting," said Theo Matthews of United Cook Inlet Driftnetters Association. "I hope that legislation is dead on arrival."

Among perennial disputes for the board are that commercial fishermen in Cook Inlet want to net more salmon. Meanwhile, sport fishermen want more of those salmon to escape and swim into Kenai River, where they can be caught with rod and reel.

SEE Pg 2

ADN 01 FEB 95

CONT'D

Subsistence fishermen on the Yukon River argue that chum salmon caught by commercial fishermen south of the Alaska Peninsula otherwise would enter their river, and the subsistence fishermen push for limits on the commercial fishermen.

But those kinds of disputes are worked out under the current system, so why change it? Democracy can be messy, but at least it's democracy, said Dick Bishop of the sportsman's umbrella group Alaska Outdoor Council.

Bishop said a professional board would become a bureaucracy to compete with the state's Fish and Game Department, which currently does studies and makes recommendations to the boards.

A professional board might develop its own conclusions based on studies by its staff, and would be less swayed by public input, Bishop suggested.

"The purpose of the boards is to bridge the gap between the technical experts and the public, and to decide on allocations. And I think the responsiveness to the public is important," Bishop said.

Many parties agree the Fisheries Board is somewhat unwieldy.

The board meets about six times a year for two-week stretches. Despite the marathon sessions, it is able to review each fishery only once every three years unless there is an emergency.

The Knowles administration's policy team on fish and game — made up of a mix of commercial, sport and subsistence representatives — recommended keeping the lay boards. But it also considered splitting the Fisheries Board into two panels, one for fin fish and one for shellfish.

Larry Edfelt of Juneau, a current member of the Fisheries Board, said serving on the panel has become nearly a full-time job in recent years.

"I think the current system is still working, but eventually the work load will get to be so great that a professional board will be necessary."

TESTIMONY ON SB 49 & SB 50

Presented by: Eddie Grasser, Past member, Alaska Board of Game
Box 2193; Palmer, Ak. 99645 (907) 745-3772
Juneau: Box 34097; Juneau, Ak. 99803 (907) 463-3830

Date: Feb. 20, 1995

Presented to Senate Resources Committee

Mr. Chairman, members of the Resource Committee, my name is Eddie Grasser and I am here today representing myself. I would like to take this opportunity to thank you for this opportunity to testify on this important issue.

As a past member of Alaska's Board of Game, and as a lifelong resident of Alaska who has been interested in and has participated in natural resource management issues for some time now, I would urge you to reconsider the basic tenets of both SB 49 and SB 50. It is in my opinion a misdirected approach to resolving some of the basic problems currently confronting both Boards.

I would be the first to admit the Board of Fisheries faces much more difficult situations in addressing controversial issues and promulgating appropriate regulations than does the Board of Game. However, I believe strongly in the current process and feel anything else would seriously undermine the public's participation. After a couple of years on the Board of Game, I do have a couple of observations which I feel have validity and should be given consideration by the legislature, if it is felt some adjustments should be made. I recognize these observations were made as a Board of Game member and may or may not apply to the Fish Board.

First of all, I am entirely convinced the process would fare much better if the terms of each board member were extended. My suggestion at this time would be for five year terms. Secondly, I feel quite strongly there is a legitimate need for qualification standards for either board. I found on many occasions the lack of historical perspective created unnecessary problems and controversies. I am not sure how we could craft a standard which would meet constitutional muster, but at this time I would be very much in favor of requiring perspective board members to have at least 10 years residency before they could be considered as candidates.

I further believe some of the inherent problems associated with each board's work load could be alleviated with some changes in the way business was conducted. For instance, if we allowed the boards to meet as review committees prior to the public distribution of proposals, I believe we could reduce confusion and the amount of work at the regular board meeting by consolidating similar proposals and/or eliminating errant or inappropriate ones. The legislature could further assist the process by creating a more favorable situation in relation to judicial involvement. In other words, if we had a statute relating to the board process that mandated deference by the courts to the decisions made during the regular course of doing business, we would realize a fairly sizable reduction in each board's workload.

Lastly, in order to make the board process better, we should adjust the terms so they ended on April 30th. This would allow better continuity in the process as board members, members of advisory committees and members of the public would have been involved in the process leading up to the spring board meetings, which are traditionally the most important ones of the year.

Once again, thank you for the opportunity to present my views on this important subject. I sincerely hope you are able to consider some of my suggestions. Also, I would like to let you know I would be available at any time during the session if any member would like to discuss the above points or any further thoughts on how to improve these boards which are so important to the people of Alaska.

SCOMM

95:21

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

Mailing Address:
119 N. Cushman, Suite 203
Fairbanks, Alaska 99701
(907) 456-8161



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-2327

House District 31

House Of Representatives

Sponsor Statement

House Bill 165

The board of fish is charged with the difficult task of allocating between various resource users, it is also a vital link in the conservation of Alaska's fisheries resources. Appointments to the board become highly political as various competing interests vie for representation on the board.

It is generally acknowledged that governor's select appointments with a goal of balancing the various interests, and balancing the political impact between the various interest groups. HB 165 codifies what is the generally acknowledged and preferred practice for the board.

Providing for the "common use" (Alaska Constitution) has become a difficult tug-of-war between commercial, sport, personal use, and subsistence users. There is a perception of conflict between regional protection of the resource and utilization of the resource throughout the state. Fisherman in one area complain that fishermen elsewhere are allocated too many fish. The high dollar fisheries appear best able to lobby for increased allocations. Low dollar fisheries cry foul.

HB 165 recognizes the need to balance the geographic representation on the board to prevent the appearance of conflict. The most knowledgeable individuals on a particular issue may well be actively involved in the affected fishery as a part of their livelihood. With an established balance, individual board members may not have to abstain from voting in their personal areas of expertise as often.

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STATE OF ALASKA**

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

MEMORANDUM

February 20, 1995

SUBJECT: Sectional Summary of HB 165; An Act relating to membership on the Board of Fisheries.

TO: Representative Pete Kelly

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of HB 165; An Act relating to membership on the Board of Fisheries.

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

Section 1 of the bill repeals and reenacts AS 16.05.221(a) in order to provide that at least one member, but not more than two members, of the Board of Fisheries shall be residents of each of the following regions of the state: southeast, southcentral, western, interior and Arctic. Also, at least one member, but not more than two members, of the board shall be from each of the following groups: commercial fishermen, subsistence fishermen, personal use fishermen, and sport fishermen; however at least one member, but not more than three members, shall be public members who do not have a vested interest in the utilization of fishery resources.

GU:klb
95-082.klb

HB 165:

Representation on the Board of Fish:

The members of the Board of Fish shall include:

At least one, but not more than two persons who reside in each of the following:

Southeast
Southcentral
Western
Interior
Arctic

One person, but not more than two from each of the following groups:

Commercial fishermen
Subsistence fishermen
Personal use fishermen
Sport fishermen

One person but not more than three:

public members who do **not** have a vested economic interest in the utilization of the fishery resources of the state.

STATE OF ALASKA - OFFICE OF THE GOVERNOR
Boards and Commissions Office**Membership Roster****(037) FISHERIES**

Member	Appointed	Reappointed	Term Exp.
Kay Andrew Public -- Chair P.O. Box 7211 Ketchikan, AK 99901	05/12/93		01/31/96
Trefon Angasan Public Bristol Bay Native Corporation P.O. Box 100220 Anchorage, AK 99510	01/31/92	02/09/95	01/31/98
Dick H. Bower, Sr. Public P.O. Box 3662 Soldotna, AK 99639	02/04/94		01/31/97
Irving Carlisle Public P.O. Box 2349 Soldotna, AK 99669	02/20/91		01/31/94
Mike Chihuly Public -- Vice-Chair P.O. Box 39294 Ninilchik, AK 99639	09/19/88		01/31/91
Loren Croxton Public P.O. Box 1410 Petersburg, AK 99833	04/04/91		01/31/93
Larry Edfelt Public 1212 Pike Court Juneau, AK 99801	07/23/91	01/31/93	01/31/96
Thomas M. Elias Public 822 West International Anchorage, AK 99518	07/23/91		01/31/94
Larry J. Engel Public -- Vice-Chair P.O. Box 197 Palmer, AK 99645	02/04/94		01/31/97
John A. Hanson Public P.O. Box 1 Alakanuk, AK 99554	02/08/89	07/13/92	01/31/95

STATE OF ALASKA - OFFICE OF THE GOVERNOR

Boards and Commissions Office

Membership Roster

(037) FISHERIES

Member	Appointed	Reappointed	Term Exp.
Bud Hodson Public(THIS TERM EXPIRATION IN ERROR SINCE 1976! S/B 910131! -- Chair 6661 Lawlor Circle Anchorage, AK 99502	11/20/87	02/08/89	01/31/92
Bud R. Ivey Public 9438 Patricia Place Juneau, AK 99801	01/31/90		01/31/93
Dick Jacobsen Public P.O. Box 54 Sand Point, AK 99661	01/31/93		01/31/96
Deborah Lyons Public P.O. Box 296 Petersburg, AK 99833	01/31/90	01/31/93	01/31/96
Michael R. Martin Public -- Chair 13300 Venus Way Anchorage, AK 99515	01/31/90		01/31/93
Carl Rosler Commissioner/Fish and Game/ex officio secretary Commissioner Department of Fish and Game P.O. Box 25526 Juneau, AK 99802-5526	03/01/00		
Frank Rue Commissioner/Fish and Game/ex officio secretary Commissioner Department of Fish & Game P.O. Box 25526 Juneau, AK 99802-5526	02/21/95		
Robin Samuelson Public Box 412 Dillingham, AK 99576	02/08/89		01/31/92
Virgil L. Umphenour Public 2400 Davis Road Fairbanks, AK 99701	07/22/94		01/31/96
Ken Wardwell Public (1976 TERM ERROR NOW CORRECTED TO 940131) 1444 Hillcrest Drive Anchorage, AK 99503	02/19/91		01/31/94

CORRECTION

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Membership Roster

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STATE OF ALASKA - OFFICE OF THE GOVERNOR

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Membership Roster

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Carl Rosler Commissioner/Fish and Game/ex officio secretary Commissioner Department of Fish and Game P.O. Box 25526 Juneau, AK 99802-5526	03/01/00		
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Ken Wardwell Public (1976 TERM ERROR NOW CORRECTED TO 940131) 1444 Hillcrest Drive Anchorage, AK 99503	02/19/91		01/31/94



PROFILE

CONSERVATION DISTRICTS

Conservation Districts are:

- composed of local land owners (cooperators) within a district
- legal sub-divisions of state government that can administer some natural resource programs
- self-governed by locally elected supervisors who set policy and assign priorities
- "grass roots" - rural landowners assisting in managing and developing Alaska's natural resources
- originally from "Territorial days" established to encourage residents to settle the land, particularly for agricultural development
- funded from grants and very limited state funds, as well as by income-producing projects such as equipment rental and office rental
- supported jointly by federal and state governments: the U.S. Soil Conservation Service and the Alaska Department of Natural Resources
- expanding their scope of concerns and services to include rural development of all natural resources.



SERVICES

FOR RURAL COMMUNITIES

Conservation Districts provide:

- Land Conservation Plans at the request of land owners/cooperators for agricultural and forest lands
- emergency erosion protection through several unique programs with U.S. Soil Conservation Service (USSCS)
- opportunities for rural economic development by sponsoring Resource Conservation & Development offices (another USSCS program)
- flood control project administration to protect rural communities and residents
- water quality protection and restoration project administration and coordination
- Best Management Practices direction for forest, land, water, agriculture, and mining activities
- educational programs about conservative use of resources available to communities and schools
- three-way communication between communities, federal, and state governments.



OUTLOOK

GRASS ROOTS SOLUTIONS

Soil & Water Conservation Districts connect landowners and cooperators with technical and financial assistance needed to solve resource development and conservation problems. They provide local knowledge and resources for development of compliance programs.

State and national programs emphasize the necessity of local participation for planning and implementing resource management programs.

NEW PROGRAMS FOR ALASKA

Districts' proven track record for putting conservation on the ground has caught the attention of state and federal agencies. Local districts are being asked to take on more tasks such as:

- sponsor flood & erosion protection projects for communities on major river systems
- sponsor & administer water quality projects
- participate in forest stewardship programs
- assist in development of Best Management Practices
- develop *Coordinated Resource Management Plans* with communities.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 165

Revision Date: _____
Title: Qualifications for Board of Fish Members

Dept. Affected: Fish and Game

BRU: Board of Fisheries and Game

Component: Boards Services

Sponsor: Rep. Kelly
Requester: House Fisheries

COMPONENT SERIAL NO. 482

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Geron Bruce
Division: Commissioner's Office
Approved by Commissioner: [Signature]
Agency: _____

Phone: 465-6143
Date: 2/24/95
Date: 2-27-95

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State Capitol
Juneau, Alaska
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House District 31

House Of Representatives

Sponsor Statement

House Bill 165

The board of fish is charged with the difficult task of allocating between various resource users, it is also a vital link in the conservation of Alaska's fisheries resources. Appointments to the board become highly political as various competing interests vie for representation on the board.

It is generally acknowledged that governor's select appointments with a goal of balancing the various interests, and balancing the political impact between the various interest groups. HB 165 codifies what is the generally acknowledged and preferred practice for the board.

Providing for the "common use" (Alaska Constitution) has become a difficult tug-of-war between commercial, sport, personal use, and subsistence users. There is a perception of conflict between regional protection of the resource and utilization of the resource throughout the state. Fisherman in one area complain that fishermen elsewhere are allocated too many fish. The high dollar fisheries appear best able to lobby for increased allocations. Low dollar fisheries cry foul.

HB 165 recognizes the need to balance the geographic representation on the board to prevent the appearance of conflict. The most knowledgeable individuals on a particular issue may well be actively involved in the affected fishery as a part of their livelihood. With an established balance, individual board members may not have to abstain from voting in their personal areas of expertise as often.

Kodiak Fish Co. - **F/V PROVIDER** -
326 Center Ave. suite 205
Kodiak Alaska, 99615

Feb.22,1995
Tel . (907) 486-3309
Fax. (907) 486-3676

My Name is Mark Kandianis. I have resided in Kodiak Alaska since 1980. I have been registered with the state of Alaska for scallop fishing for fifteen years and worked under Alaska's Fish and Game regulations for the same period.

In 1990 I attended a fisheries meeting in Kodiak chaired by Sen. Ted Steven's on the pending vessel moratorium for vessels fishing in the federal waters off Alaska. I found out at this meeting that this vessel moratorium would not apply to the scallop fishery. There had never been a federal management plan written for this species, though this fishery has taken place off Alaska in federal waters since the late 60's.

In 1991 I started talking to Alaska Dept. of Fish and Game, the North Pacific Management Council and the National Marine Fisheries Service about developing a Fisheries Management plan for scallops in the EEZ waters off Alaska. It has been a long process with little reward. A moratorium control date was set of July 1, 1993. Still after this date new arrivals from the collapsed overcapitalized east coast fishery entered the scallop fishery here. The control date was moved ahead after some questionable lobbying and the new arrivals' efforts to invalidate the original control date in the federal register in Washington D.C. All of these new entrants arrived with two boats each. Some of the earlier ones came with unusually large crews. The results were quick depletion of some localized stocks and intense scrutiny of potential bycatch problems.

Since the arrival of these new boats we have had regulation upon regulation imposed on us as well more than doubling of the fleet size. We started the process of developing a management plan with the intent of trying to maintain a viable fishery and we have come out this process the biggest losers period. Our fishing time and income has been cut in less than half. We are now outnumbered by the newly arrived east coast scallop boats by more than two to one.

All of the long time participants in the Alaska scallop fishery are now suffering severe financial distress without exception. This appears to be the reward for years of hard work trying to maintain a once viable fishery.

Mark Kandianis
Mark Kandianis F/V PROVIDER

Applies to ~~EPF~~ + other fish?

SCOMM

95:22

Alaska Guide/Charter Task Force

November 22, 1995

Dear Sport Fishing Guide:

At its March 1995 meeting, the Alaska Board of Fisheries considered several proposals relating to the Alaskan guide/charter industry. Given the complexity of this issue, the Board created a task force to make recommendations regarding the orderly development of the Alaskan guide/charter industry. The task force is composed of members of the Alaskan guide/charter industry and the public.

The task force meet several times during the spring of 1995 and developed a mission statement and identified issues for consideration and review (refer to the attached mission statement). After much discussion, the group decided to focus their initial efforts towards developing a statewide licensing proposal for sport fishing guides, charters, and outfitters. The group meet several times during the fall of 1995 to develop a draft licensing proposal. This proposal is attached for your review and consideration.

The House Special Committee on Fisheries in conjunction with the task force will hold a public meeting from 2 p.m. to 5 p.m. on December 6, 1995 to take public comments regarding this proposal. This meeting will utilize the statewide network of the Legislative Information Office. To participate, contact the Legislative Information Office nearest you as soon as possible in advance of the meeting. If you are unable to attend the meeting and wish to comment on the proposal, please write to Mr. Doug Vincent-Lang, Alaska Department of Fish and Game, Division of Sport Fish, 333 Raspberry Road, Anchorage, AK 99518.

MISSION STATEMENT GUIDE/CHARTER TASK FORCE

April 14, 1995

The guide/charter industry is an important component of fisheries throughout Alaska, providing access to fishing opportunities throughout Alaska. At its March 1995 meeting, the Alaska Board of Fisheries considered proposals relating to the Alaskan guide/charter industry. Given the complexity of this issue, the Board created a task force to make recommendations regarding the orderly development of the Alaskan guide/charter industry. The task force is composed of members of the Alaskan guide/charter industry and the public.

The task force's mission is to evaluate and recommend regulatory and legislative options regarding the management and development of the Alaska guide/charter industry. The task force has identified the following issues for consideration and review:

1. *guide/charter definitions*
2. *requirements/standards*
3. *guide/charter restrictions*
4. *guide/charter reporting*
5. *statewide licensing*
6. *participation*

The task force will be scheduling meetings throughout Alaska to solicit public comment. The task force is scheduled to report back to the Board of Fisheries at its October 1995 meeting and to complete their recommendations for possible regulatory and statutory actions by the end of January 1996.

For further information, please contact Bud Hodson, Chairman Guide/Charter Task Force, at (907) 243-8450 or Doug Vincent-Lang of the Alaska Department of Fish and Game, Division of Sport Fish, at (907) 267-2218.

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Pat Carter
Recreational Angler, Anchorage
(907) 465-2667

Lynn Williams
Chairman, Hunter Advisory Board
(907) 238-8551

ALASKA SPORT FISHING GUIDE / CHARTER / OUTFITTER TASK FORCE

STATEWIDE LICENSING PROPOSAL

The SPORT FISHING GUIDE/CHARTER/OUTFITTER TASK FORCE (Task Force) is recommending a two tier licensing system which treats the business's that operate the guiding/chartering and outfitting services as *operators* and the actual GUIDES/CHARTER CAPTAINS that assist the anglers as employees/guides of a licensed operator (*guides*).

The first tier of licensing requires *operators* (see definitions) to acquire a *Sport Fishing Services Operator's License* (Operator's License) through the State of Alaska, Department of Commerce and Economic Development, Division of Occupational Licensing.

The second tier requires the *guides* (see definition) to get a *Sport Fishing Guiding License* from the Alaska Department of Fish and Game through the existing license vendors program, much like a commercial fishing crewmen's license. The guides would have to work under/for a licensed operator.

This separation between the actual business (operators) and the guides reflects the responsibility of who (in this case the business/operator) solicits and books the clients, is responsible for buying insurance, workers compensation insurance, hiring employees and pays taxes etc. and the guides who accompany (guide) the anglers in the field.

The industry is very broad and diverse representing large lodges in Southeast Alaska, individual guides/charters, float trip operators, wilderness camps, halibut and salmon marine charters, fly out lodges etc. These operators range from single guide business's to large operators with dozens of guides/employees, in multiple locations and or facilities. There is no doubt that the actual operators are indeed the industry and for many operators the guides are hired employees on a seasonal basis.

This two tier licensing system would allow an operator to also hold a guide license and a guide who is in business for him/herself to hold an operator's license. In this system, a large operator may be a corporation or individual who may never guide and not obtain a guide license. There is a clear separation between the responsibilities of an operator and the operator's employees or while the operator is personally guiding.

The task force considers this proposal as a foundation for licensing this industry, a starting point. Although to some this licensing format may not have as many qualifications and requirements as many envisioned, the task force realized that the industry is far too broad and diversified to attach to many pre-qualifications to receiving a license. We did not want to create 3 or 4 different operator's licenses.

Conversely with the guides, we did not want to create a paperwork nightmare to get each guide licensed. We also had a concern for turn around time to get a guide/employee licensed and available for hire. However, we have placed certain requirements on guides, to reflect some level of public safety.

The task force did not attempt to regulate ethics, quality, and competency. The requirements we have suggested are applicable throughout the industry and are already common. For most of the industry, qualifying for a U.S. Coast Guard license is far more restrictive than the Task Force was willing to look at. We did not want to pattern this after the big game hunting guide laws. We did not believe that having testing, a review board, prior experience etc., would actually cull out the unprofessional, unethical, or incompetent operator. Nor do we believe that if we made it (hard enough) would it be a deterrent to anyone participating in this industry. It was not the Task Force's roll to judge the industry. We did not attempt to determine how the industry should act, or what direction it should go in the future. Our goals where to identify the industry, provide some common requirements for licensing to promote public safety and provide the management authorities with information.

We tried to keep it simple, yet still provide some level of qualification, responsibility and a vehicle for the state to define and identify this industry. It is important to the Task Force that this licensing encompasses all of the operators. We worked hard to eliminate loop holes which would require the ethical operator to get licensed and the unethical operator to operate and guide without licenses.

FEES - The Task Force is recommending the cost of the *Sport Fishing Services Operators License* with the Department of Commerce reflect only the cost to administer and issue the licenses. Initial estimates indicate that the license fees will be between \$ 50 and \$75 per year.

The *Sport Fishing Guiding License* which would be purchased through the existing fishing and hunting license vendor system would cost \$25 for residents and \$75 for non-residents. This money would go to the Alaska Department of Fish and Game to help pay for the cost of gathering data on the industry.

An operator who also **guided** would pay both fees to get both licenses.

Throughout the licensing proposal the task force includes personal & subsistence fishing because residents who are guided might claim they are participating in a personal use or subsistence fishery.

Tier 1: SPORT FISHING SERVICES OPERATOR'S LICENSE

A person or business may not provide sport fishing service operations without first obtaining a **SPORTFISHING SERVICES OPERATOR'S LICENSE** from the State of Alaska Department of Commerce and Economic Development, Division of Occupational Licensing. A **SPORT FISHING SERVICE OPERATOR** must meet the following requirements to be eligible for a license:

1. have a valid Alaska Business License
2. show proof of a guides and outfitters general liability insurance policy with a minimum coverage of \$500,000 per occurrence and \$1,000,000 per annual aggregate.

A licensed **SPORT FISHING SERVICES OPERATOR** must comply with reporting requirements which may be requested by the Department of Commerce and Economic Development or the Alaska Department of Fish and Game.

A licensed **SPORTFISHING SERVICES OPERATOR** must register with the Alaska Department of Fish and Game, Division of Sport Fish, and provide the names of the licensed Sport Fishing Guides which will be employed by the **SPORTFISHING SERVICES OPERATOR**.

The fee for the **SPORTFISHING SERVICES OPERATORS** license will be set by the Alaska Department of Commerce and Economic Development to recover only the actual cost of issuing and administering this licensing program.

DEFINITIONS

SPORT FISHING SERVICES OPERATOR is any person or business who provides services for fishing under sport, personal use, subsistence regulations for compensation or with the intent or agreement to receive compensation for providing fishing guides, guiding, outfitting or fishing clubs. **SPORT FISHING SERVICES OPERATORS** do not include:

- 1- A person or business providing only transportation to or from the field, if the person or business providing the transportation does not assist, direct, and/or accompany the person(s) in the taking or attempting to take fish or shellfish under sport, personal use, or subsistence fishing regulations.
- 2- Selling, leasing, or renting goods that pertain to fishing, camping, or outfitting for sport, personal use, or subsistence fishing if the transaction does not take place in the field.
- 3- Selling tackle, bait, or fuel in the field as long as no other services are provided.
- 4- Renting vessels or skiffs in the field without an operator as long as no fishing equipment, gear, bait, tackle, or any other services are provided.

Tier 2: SPORT FISH GUIDE LICENSE

A natural person may not guide another person in the taking of or attempting to take fish or shellfish under sport, personal use, or subsistence fishing regulations without first obtaining a **Sport Fish Guide License** from the Alaska Department of Fish and Game. A Sport Fish Guide must meet the following requirements while guiding:

1. Be at least 18 years of age.
2. Hold a valid first aid and cardiopulmonary resuscitation (CPR) certification cards issued by the American Red Cross, American Heart Association, or an equivalent organization.
3. Be a U.S. Citizen or U.S. National.
4. Hold any appropriate license(s) to meet U.S. Coast Guard vessel operators licensing requirements.
5. Hold a valid State of Alaska Sport Fishing License.
6. Be registered with the Alaska Department of Fish and Game, Division of Sport Fish, by a licensed Sport Fishing Services Operator to guide under the employment and authority of a licensed **Sport Fishing Services Operator**.

While guiding, a Sport Fish Guide must have in his/her possession: proof of valid and current first aid & CPR training, Alaska Department of Fish and Game guide registration form, drivers license or pictured identification, appropriate license(s) that may be required by the U.S. Coast Guard, a valid State of Alaska sport fish license.

A Sport Fish Guide must work under the authority of a Licensed **SPORT FISHING SERVICES OPERATOR**.

A Sport Fish Guide may not contract directly with a person for the service of providing sport fish guiding services or outfitting for compensation or the intent or agreement to receive compensation, without acquiring a **SPORT FISHING SERVICES OPERATORS LICENSE**.

DEFINITIONS

SPORT FISH GUIDING means a natural person who assist another person who is providing compensation or with the intent or agreement to provide compensation to a **SPORTFISHING SERVICES OPERATOR** to take or attempt to take fish or shellfish under sport, personal use or subsistence fishing regulations by accompanying and or directing that person personally for the duration of or any portion of a fishing trip.

SPORTFISH GUIDING does not include

1. Providing transportation to or from the field, if the person providing the transportation does not assist, direct, and or accompanies persons in the taking of or attempting to take fish or shellfish.

2. Selling, leasing or renting goods that pertain to fishing camping or outfitting for sport, personal use, or subsistence fishing if the transaction does not take place in the field.
3. Renting vessels or skiffs without a operator, as long as no fishing equipment, gear bait, tackle or any other services are provided.
4. Selling tackle, bait or fuel in the field as long as no other services are provided and that natural person selling tackle, bait or fuel does not accompany or direct another person in the taking of or attempting to take fish or shellfish under sport, personal use, or subsistence fishing regulations.

OUTFITTING means the provision of services and equipment or other fish guiding services for sport, personal use or subsistence fishing in the field for compensation or with the intent or agreement to receive compensation.

FIELD means an area outside of established developments usually associated with a city or town and areas and waters not reasonably accessible by foot along the State of Alaska road system. Field does not include permanent hotels, bed & breakfast, or roadhouses on the state road system.

FISHING CLUBS means an organization that offers use of property, equipment or services to individuals who pay a fee for the privilege of using the property, equipment, or services for sport, personal use or subsistence fishing.

RECEIVED
JAN 23 1996
Ans'd.....

January 17, 1995

Representative Alan Austerman
Alaska House of Representatives
Chair - Fisheries Committee
State Capitol
Juneau, AK 99801

Dear Alan,

As you are aware, the Alaska Board of Fisheries considered several proposals relating to the Alaskan guide/charter industry at its March 1995 meeting. Given the complexity of this issue, the Board opted to create a task force to make recommendations regarding the orderly development of the Alaskan guide/charter industry. The task force is composed of members of the Alaskan guide/charter industry and the public.

The task force meet several times during the spring of 1995 and developed a mission statement and identified issues for consideration and review (refer to the attached mission statement). After much discussion, the group decided to focus their initial efforts towards developing a statewide licensing proposal for sport fishing guides, charters, and outfitters. The group meet several times during the fall of 1995 to develop a draft licensing proposal. The draft proposal was mailed out to over 3,000 companies and guides who registered with the Alaska Department of Fish and Game as sport fishing guides and charters during 1995 soliciting their comments. In addition, a teleconference with your committee was held soliciting public opinion. The Task Force held another meeting in January 1996 to discuss the comments received. After considerable discussion, the draft proposal was amended to address several major concerns identified. The final licensing proposal of the Task Force is attached for your review and consideration as substitute language for HB 175. This final proposal received unanimous support of the Task Force.

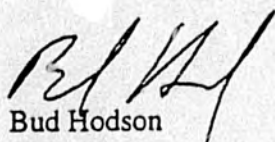
The Task Force believes that a comprehensive licensing system is needed to better define this diverse industry. The proposed licensing system provides needed definitions for companies and individuals who provide sport fishing guiding, chartering, and outfitting services. Through such definitions, it is hoped that the industry can be more fully identified and organized. It is also believed that the definitions will close loopholes in current definitions, thereby providing a level playing field for the industry and for better enforcement of regulations pertaining to sport fishing guides and charters. It is also hoped that comprehensive licensing will add stability to this economically important industry which supports many

jobs throughout Alaska. Insurance requirements for companies and safety requirements for guides are stipulated to assure that anglers utilizing this industry are protected and a professional level of service is maintained. The proposed license package also establishes fees and reporting requirements that provide the needed foundation to help management agencies build a reasonable and stable regulatory environment to assure for the long term health of both the industry and the resource it depends upon.

Please feel free to contact me if you have any questions. I will be glad to testify in front of your committee when the bill is introduced and/or discussed. I believe I can add significant background to the Task Force's recommendations and the extensive public process used to arrive at the proposed licensing system.

Again, thank you for your interest in helping this issue move forward.

Sincerely,



Bud Hodson

Chair, Sport Fishing Guide/Charter/Outfitter Task Force

cc: Sport Fishing Guide/Charter/Outfitter Task Force Members
Doug Vincent-Lang, Alaska Department of Fish and Game

ATTACHMENTS:

Sport Fishing Guide/Charter/Outfitter Task Force Mission Statement
Proposed Licensing Package

MISSION STATEMENT GUIDE/CHARTER TASK FORCE

April 14, 1995

The guide/charter industry is an important component of fisheries throughout Alaska, providing access to fishing opportunities throughout Alaska. At its March 1995 meeting, the Alaska Board of Fisheries considered proposals relating to the Alaskan guide/charter industry. Given the complexity of this issue, the Board created a task force to make recommendations regarding the orderly development of the Alaskan guide/charter industry. The task force is composed of members of the Alaskan guide/charter industry and the public.

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1. *guide/charter definitions*
2. *requirements/standards*
3. *guide/charter restrictions*
4. *guide/charter reporting*
5. *statewide licensing*
6. *participation*

The task force will be scheduling meetings throughout Alaska to solicit public comment. The task force is scheduled to report back to the Board of Fisheries at its October 1995 meeting and to complete their recommendations for possible regulatory and statutory actions by the end of January 1996.

For further information, please contact Bud Hodson, Chairman Guide/Charter Task Force, at (907) 243-8450 or Doug Vincent-Lang of the Alaska Department of Fish and Game, Division of Sport Fish, at (907) 267-2218.

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SPORT FISHING GUIDE/CHARTER/OUTFITTER TASK FORCE

STATEWIDE LICENSING PROPOSAL FOR SPORT FISHING GUIDES, CHARTERS, AND OUTFITTERS

The Sport Fishing Guide/Charter/Outfitter Task Force (hereafter referred to as the Task Force) is recommending a two-tier licensing system for businesses and individuals who offer sport fishing guiding, chartering, and/or outfitting services. One tier would require the owners and operators of businesses who provide such services to acquire a **SPORT FISHING SERVICES OPERATOR LICENSE**. This license would be administered through the State of Alaska, Department of Commerce and Economic Development, Division of Occupational Licensing. A second tier would require the individual guides who provide sport fishing guiding, chartering, and/or outfitting services in the field to acquire a **SPORT FISH GUIDE LICENSE**. This license would be administered through the Alaska Department of Fish and Game through its existing license vendors program, much like a commercial fishing crewmen's license. Under this two-tiered system, licensed sport fish guides would have to work under/for a licensed operator. To reduce the impact on small operators, individuals who acquire a **SPORT FISHING SERVICES OPERATOR LIENSE** would automatically obtain a **SPORT FISH GUIDE LICENSE**.

SPORT FISHING SERVICES OPERATOR LICENSE

A person or business may not provide sport fishing service operations without first obtaining a **SPORT FISHING SERVICES OPERATOR LICENSE** from the State of Alaska Department of Commerce and Economic Development, Division of Occupational Licensing. A **SPORT FISHING SERVICE OPERATOR** must meet the following requirements to be eligible for a license:

1. have a valid Alaska Business License and
2. show proof of a general liability insurance policy with an annual minimum aggregate coverage of \$300,000 for protection and indemnity.

A **SPORT FISHING SERVICES OPERATOR** must comply with reporting requirements which may be requested by the Department of Commerce and Economic Development and/or the Alaska Department of Fish and Game.

The fee for the **SPORT FISHING SERVICES OPERATOR** license will be set by the Alaska Department of Commerce and Economic Development to recover only the actual cost of issuing and administering this licensing program. (Note: Based on discussions with the Department of Commerce it is estimates that the license fees will be between \$50 and \$75 per year.)

*(Note: A majority of the public comments received by the Task Force expressed serious concern about the number of licenses, permits, and registrations currently required by the various state and federal agencies to legally operate a sport fishing guide, charter, or outfitting service in Alaska. The Task Force members fully recognize this problem and suggest that means be found to reduce the load. One option is to combine the **SPORT FISHING SERVICES OPERATOR LICENSE** with the Alaska Business License requirement. Unfortunately, the Task Force did not have the time or expertise to fully explore this option. The Task Force would encourage the legislature to look for ways to promote and simplify current licensing programs, such as combining licenses where possible.)*

Definitions:

A **SPORT FISHING SERVICES OPERATOR** is any person or business who provides services for fishing under sport, personal use, subsistence regulations for compensation or with the intent or agreement to receive compensation for providing fishing guides, guiding, outfitting or fishing clubs. A **SPORT FISHING SERVICES OPERATOR** does not include:

1. A person or business providing only transportation to or from the field, if the person or business providing the transportation does not assist, direct, and/or accompany the person(s) in the taking or attempting to take fish or shellfish under sport, personal use, or subsistence fishing regulations.
2. Selling, leasing, or renting goods that pertain to fishing, camping, or outfitting for sport, personal use, or subsistence fishing if the transaction does not take place in the field.
3. Selling tackle, bait, or fuel in the field as long as no other services are provided.
4. Renting vessels or skiffs in the field without an operator as long as no fishing equipment, gear, bait, tackle, or any other services are provided.

SPORT FISH GUIDE LICENSE

A natural person may not guide another person in the taking of or attempting to take fish or shellfish under sport, personal use, or subsistence fishing regulations without first obtaining a **SPORT FISH GUIDE LICENSE** from the Alaska Department of Fish and Game or hold a valid a **SPORT FISHING SERVICES OPERATOR LICENSE** from the Alaska Department of Commerce and Economic Development. A **SPORT FISH GUIDE** must meet the following requirements while guiding:

1. be a U.S. Citizen or U.S. National;
2. hold a valid first aid and cardiopulmonary resuscitation (CPR) certification cards issued by the American Red Cross, American Heart Association, or an equivalent organization;

3. hold any appropriate license(s) to meet U.S. Coast Guard vessel operators licensing requirements;
4. hold a current State of Alaska Sport Fishing License; and,
5. hold a current Sport Fishing Guide License or a Sport Fish Services Operator License.

While guiding, a **SPORT FISH GUIDE** must have in his/her possession: proof of valid and current first aid & CPR training, drivers license or pictured identification, appropriate license(s) that may be required by the U.S. Coast Guard, a valid State of Alaska sport fishing license, a copy of their current **SPORT FISH GUIDE LICENSE** and a copy of the **SPORT FISHING SERVICES OPERATOR LICENSE** of the company they are employed under or their **SPORT FISHING SERVICES OPERATOR LICENSE**.

A **SPORT FISH GUIDE** must work under the authority of a licensed **SPORT FISHING SERVICES OPERATOR**.

The **SPORT FISH GUIDE** license would be purchased through the existing fishing and hunting license vendor system. The license would cost \$25 for residents and \$75 for non-residents. This money would go to the Alaska Department of Fish and Game to help pay for the cost of gathering data on the industry.

A **SPORT FISH GUIDE** may not contract directly with a person for the service of providing sport fish guiding services or outfitting for compensation or the intent or agreement to receive compensation, without acquiring a **SPORT FISHING SERVICES OPERATOR LICENSE**.

Definitions:

SPORT FISH GUIDING means a natural person who assist another person who is providing compensation or with the intent or agreement to provide compensation to a **SPORT FISHING SERVICES OPERATOR** to take or attempt to take fish or shellfish under sport, personal use or subsistence fishing regulations by accompanying and or directing that person personally for the duration of or any portion of a fishing trip. **SPORT FISH GUIDING** does not include

1. providing transportation to or from the field, if the person providing the transportation does not assist, direct, and or accompanies persons in the taking of or attempting to take fish or shellfish;
2. selling, leasing or renting goods that pertain to fishing camping or outfitting for sport, personal use, or subsistence fishing if the transaction does not take place in the field;
3. renting vessels or skiffs without a operator, as long as no fishing equipment, gear bait, tackle or any other services are provided;

4. selling tackle, bait or fuel in the field as long as no other services are provided and that natural person selling tackle, bait or fuel does not accompany or direct another person in the taking of or attempting to take fish or shellfish under sport, personal use, or subsistence fishing regulations; and,
5. helpers or assistants or deck hands on board a vessel who work directly under the supervision of and in the presence of a licensed *SPORT FISH GUIDE*.

OUTFITTING means the provision of services and equipment or other fish guiding services for sport, personal use or subsistence fishing in the **field** for compensation or with the intent or agreement to receive compensation.

FIELD means an area outside of established developments usually associated with a city or town and areas and waters not reasonably accessible by foot along the State of Alaska road system. Field does not include permanent hotels, bed & breakfast, or roadhouses on the state road system.

FISHING CLUBS means an organization that offers use of property, equipment or services to individuals who pay a fee for the privilege of using the property, equipment, or services for sport, personal use or subsistence fishing.

COMMISSIONERS

ALAN BEAMAN
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INTERNATIONAL PACIFIC HALIBUT COMMISSION

DIRECTOR
DONALD A. MCCAUGHAN

P.O. BOX 35009
SEATTLE WA 98145-0009

TELEPHONE
206/464-1828

FAX
206/464-2983

February 15, 1995

State Representative Allan Austerman
Chairman of House Special Committee on Fisheries
Capital Building 434
Juneau, Alaska 99801

Dear Representative Austerman:

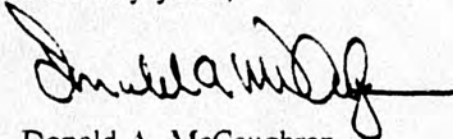
The International Pacific Halibut Commission (IPHC) would like you to know we strongly support the passage of House Bill No. 175, dealing with sport catch reporting by sport fishing guides.

As you are probably aware, IPHC is charged by treaty between the United States and Canada to manage the halibut resource for both countries. In order to perform this function it is necessary to have accurate removal information from all sources. Sport catch in Alaska amounts to 17% of the sport/commercial removals.

The Alaska Department of Fish and Game provides the Commission with sport catch statistics each year; we view this bill as providing ADF&G with the necessary tools to obtain accurate halibut sport catch information.

Thank you for your consideration.

Sincerely yours,



Donald A. McCaughan
Director

DAM:ps

RECEIVED

FEB 20 1995

Ans'd.....

November 26, 1995

James C. Tudor

P. O. Box 261

Naknek, AK. 99633

Doug Vincent-Lang

ADF&G

Anchorage, AK

Dear Sir:

I am writing to express my concern, not so much about the current proposed regulations, but about any future "limited entry" system. These proposed regulations and the associated rhetoric seem set up for a future "limited entry" sportfishing guide system.

Currently I have all the qualifications (USCG license, etc.) for a sport fishing operator-guide, however I'm not actively involved in the practice at this time. I've lived in Alaska 20 years and have sport fished, recreationally and professionally, during all the time. I can foresee myself being actively involved in the sport fishing industry in the future, perhaps as a sort of semi-retirement activity. I don't want to be excluded just because I'm involved in another occupation at this time if the industry turns to a "limited entry" system in the future.

I would like to know your views and the views of the board on this issue.

Yours truly,

James C. Tudor

James C. Tudor

Talkeetna River Guides

Box 563 • Talkeetna, Alaska 99676 • (907) 733-2677



Natural History
Float Trips
The Intimate Denali Experience



Mr. Doug Vincent Lang
Div. of Sport Fish
333 Raspberry Rd.
Anchorage, AK 99518

Dear Mr. Vincent-Lang,

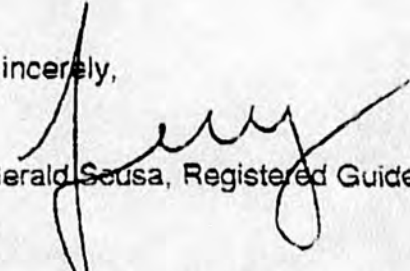
After reading the proposals I received in the mail dated November 17, 1995, regarding the Alaskan guide/charter industry, I cannot help but comment that I feel you left out one of the most important items in our industry "a **FLOTATION REQUIREMENT**" (and I am not just talking about a seat cushion).

If the Alaska Guide/Charter Task Force sees fit to require items such as CPR and first-aid cards of guides (which incidentally I think is a good idea) why have you skipped a flotation requirement. Flotation will not only exhibit professionalism on the part of the guides but perhaps it could influence independent river anglers into actually using flotation themselves. Someone dies on the Talkeetna River every year and it never ceases to amaze us here at Talkeetna River Guides that we are the only company in this area that requires use of flotation (as in the form of a float coat or vest) on every single person in one of our vessels. The writing is on the wall. The industry needs the encouragement of a regulation in order to be safe. Many more people die in this state because they are not wearing flotation than ever died of a heart attack with a guide not knowing CPR.

I would also like to comment on the future insurance requirements of the operator. A standard insurance policy for registered guides, sport fishing guides etc. has a general liability minimum coverage of \$300,000.00 per each occurrence limit and a general aggregate limit of \$600,000.00. I believe that small business' will be hurt if you go to a standard policy which has more coverage and is more in-tune with a large lodge outfit than a small sport fishing operation. You could probably do your homework and call Alaska Business Insurance and find out the normal policy that most of us already have.

Please take my two points into consideration. Otherwise, thank you for the attempt.

Sincerely,


Gerald Sousa, Registered Guide

To: The Alaska Guide/ Charter Task Force

From: Dennis Petre

After reading the format that you have come up with I must say that I am against it . You have missed the whole purpose that you were sent to accomplish and that is to establish a program to register Halibut Charter Guides and to assess their impact on the local economies and on the fishing resource. You have instead come up with a program that does little if any thing to accomplish that goal and in its present form should be scrapped.

In order to make an assessment of the Charter Fishing Industry you need to formulate who they are and collect data on what they do. Here are some suggestions.

1. Check Alaskan State Business License.
2. Check Guide Registration Forms
3. Check International Pacific Halibut Commission License
4. Check Alaska Commercial Fisheries Vessel License.

The next thing you will need is a way to collect data from all the user groups with out showing preference to any one group and here it is.

Any person who provides transportation which transports game fish whether it be sport , personal use, or subsistence caught fish from the field for profit should be required to have an Alaskan Sport Fish Transporter License. This will include all of the following.

1. All Charter Boat for hire who transport sport caught fish.
2. All Air Services who transport sport caught fish.
3. All boat rental services whose clients catch and keep sport caught fish.
4. All lodges that supply boats or other forms of transportation to customers that keep sport caught fish.
5. All outfitters and hunting guides who transport clients with sport caught game fish.
6. All businesses which provide in the field on location transportation vehicles that are used to transport game fish.

The owner of the business will be required to register each mode of transportation that is used in the business to transport game fish and a log book will be assigned to that vehicle. Details of what the log book will contain will be decided by the department of fish and game.

Any licensing fee will have to be decided by a panel and the funds will have to be dedicated by the legislature for this

program.

Age requirements will be decided by the mode of transportation used.

Must be a United States citizen.

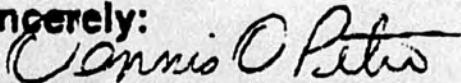
The only other requirements that I can see you should check for in order to issued Alaskan Sport Fish Transporter License are.

1. Alaska Business License
2. Proof of liability insurance

The enforcement for licenses should be up to the individual agency that issues that particular license. Some of the license are, Coast Guard License, FAA Pilot License, Alaskan Drivers License, Alaskan Sport Fishing License, Alaskan Guide Registration, International Pacific Halibut Commission License, and Alaska Commercial Fisheries Vessel License.

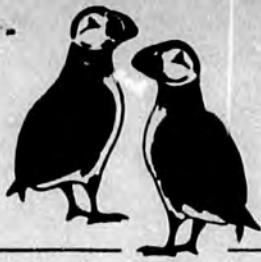
I sure hope that we can come up with a program that will benefit all Alaskans and insure that there will be plenty of fish and game for future generations.

Sincerely:



Dennis Petre

President: Valdez Charter Boat Association



PUFFIN CHARTERS, INC.

*Fishing - Sightseeing - Cruising
the
Waters of Southeast Alaska*

December 5, 1995

Dear Representative Austerman:

We have a copy of the task force recommendations relating to the Alaskan guide/charter industry and appreciate the opportunity to offer our comments and concerns.

General: We are concerned that two additional licenses are proposed that would add to the five other licenses and registrations that are presently required. We believe that sufficient information presently exists in State files and computer programs to identify participants in the industry--checking and enforcing the present regulations would go a long way toward solving the problem. To our knowledge no one has been checked to insure that they have all the required licenses.

We believe that brokers should not be licensed as operators. They have little, if any responsibility regarding clients and could easily gain control over a significant number of guides as a result of being licensed.

We also strongly suggest that the owners of facilities and boats carry required liability insurance, not the operators. In addition we believe that the recommended \$500,000 - \$1,000,000 policy is too high and should be reduced. The cost of such a policy along with the many license fees is reaching the point of forcing the small operator out of business.

Fees: We do not believe that fees (\$50-\$75) are appropriate for either the operators license or (\$25-\$75) for the sport fish guiding license, particularly in view of the 150% increase in the 1996 business license fee.

Operator License: We are concerned that reporting requirements are open ended--What will they be?

We question why an operator must, in addition to obtaining a license from the State turn around and register with the State. What is the license for and isn't that of record?

Sport Fishing Guide License: While many people who obtain guide licenses will be operating boats and need to have appropriate U.S. Coast Guard vessel operator licenses, we believe there are those guides that will guide without boats and not need vessel operator licenses. This situation should be recognized.

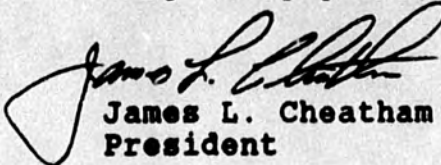
We also suggest provision be made for sport fish guides who are
4418 Mint Way • Juneau, Alaska 99801 • Phone: (907) 789-0001

not employed by, but work under the authority of a licensed sport fishing services operator.

Again, we urge that present laws and regulation be enforced along with current State information and data to remove the need for more and more layers of regulations, permits and costs.

We appreciate the opportunity to comment and we look forward to the final action on the proposals.

Very truly yours,



James L. Cheatham
President

Peterson (A)

Box 245
Hoonah, Alaska 99829
November 29, 1995

Mr. Doug Vincent-Lang
Alaska Department of Fish & Game
Division of Sport Fish
333 Raspberry Road
Anchorage, Alaska 99518

RE: STATEWIDE LICENSING PROPOSAL FOR SPORT FISHING GUIDES

Dear Mr. Vincent-Lang:

The Charter Task Force proposals sounds like more rules, regulations, licenses, fees and paperwork for the legitimate operator.

I have no problem with new laws as long as they are enforced! What we desperately need in my part of the State is enforcement of existing laws.

There has been very little effort to stop the illegal, out-of-state charter businesses that book their clientele under the guise of "nonpaying friends or business associates".

These outlaws operate without the required licenses and registrations that the legitimate operators work so hard to obtain. They are very much on the increase and tend to use small towns, like Hoonah, as their port of operations knowing that they are less likely to be caught in remote areas.

My P & I insurance coverage is \$300,000 and I think this amount or even less would be an acceptable minimum.

Sincerely,



Floyd Peterson
36 year commercial fisherman
11 year sportfishing guide
owner/operator of F.I.S.H.E.S.

cc: John Burke, Deputy Commissioner
Ak Fish & Game, Juneau

HFSA House Special Committee on Fisheries held December 6, 1995

Testimony on Guide/Charter Task Force for statewide licensing

The proposed "Tier 1" license is simply a Business License for a defined business. One requirement for this license is an Alaska Business License. It does not seem appropriate to require one kind of Business License to obtain a different kind of Business License, certainly not for a single business.

Requirement #2 about insurance far exceeds the amounts required under other State of Alaska programs. The most obvious is auto insurance. Another is the Alaska State Parks insurance requirement to obtain an Operator's Permit within state parks.

If you impose an insurance requirement make it comparable to other state programs. I'd guess the chances of incurring liability would be far greater for automobile drivers than for sport fishing guides.

As for the requirement to register with ADF&G under both "Tier 1" and "Tier 2", this is already required.

If you want the Business License to be more specific, do so. But, I would guess this might be done administratively by the Department of Commerce. Don't impose two Business Licenses on us.

The proposed "Tier 2" license is confusing.

First, apparently only "natural persons" are required to get a guide's license; since I don't know what an "unnatural person" is, I don't know who is excluded.

The so-called requirements do little if anything to address the mission statement of April 14, 1995. There are no meaningful requirements which will lend credibility or professionalism to the industry.

It seems to me that the only thing that these proposals do is to provide the means to bloat the bureaucracy and take more of our money.

Joe Wallis, FOB 1126, Homer 99603
December 6, 1995

Mr. Doug Vincent Lang
Alaska Department of Fish and Game
Division of Sport Fish
333 Raspberry Road
Anchorage, Ak. 99518



December 1, 1995

Dear Mr. Vincent - Lang,

I just received your memo dated November 22, 1995 in regards to an Alaska Guide/Charter Task Force and the proposal contained within. I have been involved in the charter sportsfishing industry since 1977, and as such, have seen many changes take place over the years. I was very surprised to receive your letter and to learn about the task force that had been formed and the meetings that have taken place. Taking into account that your memo was received today, December 1st, and that any responses would need to be in your hands no later than December 5th (the public meeting is to be held on December the 6th), requires that I need to respond today, with very little time to digest the ramifications of this proposal.

I have to first question if the procedures that are being followed to obtain public impute toward this proposal are in agreement with the wishes of the Alaska legislature. I suggest that if I am only being allowed less than 24 hours to comment on an important industry wide proposal, that is suggesting sweeping changes to this industry, that others also may not have time to either respond or receive this notice in time to be able to participate in the public comment process. Also, I am very surprised that the Alaska Department of Fish and Game had not sent out notices previously in regards to the formation and progress of this Task Force. Further, our legal counsel advises us that this proposal has insufficient comment period and we suggest that the comment period be extended until June 1, 1996.

After reviewing the information I find that the proposal as it stands is unconstitutional because it is vague, overbroad and ambiguous. As a result, it will have a chilling effect on all fisherpersons be they natural persons or regular persons since the language appears to include compensated and uncompensated individuals. I believe that the formation of a state-wide fishing guide/charter operator's licensing program is going to create many more problems that it will solve. The State of Alaska, because of its immense size and diversification of its fisheries, calls for more specialized treatment than that being addressed in the proposal. For example, currently any sportsfishing guide involved in the guide/charter industry on the Kenai Peninsula is far more regulated than individuals involved in the industry elsewhere in the state. We already are required to have and possess a current U.S. Coast Guard license, to have a current Kenai Peninsula Borough sales tax collection certificate, have and possess current first-aid and C.P.R. cards, have a

current State of Alaska business license. In addition, all of our vessels have to have a current State of Alaska commercial vessel license and a current Federal vessel certificate. Further, for operating in the marine fishery, a State of Alaska Parks permit is required. If our boats operate on the stretches of River that are encompassed by the Kenai National Moose Range, then an additional permit is required by that government agency. A State of Alaska Sportsfishing license is also required to guide/charter on the Kenai Peninsula. All guides/charter boat operators must belong to a Drug Consortium and comply with drug testing (ongoing cost of \$65-\$200 per year per person). Once we have attained all the above permits, which all require a fee from \$25 dollars to several hundred dollars per vessel, we now qualify to be able to purchase a Kenai River Special Management Permit, at the cost of between \$550 and \$1475 per guide or vessel. A guide can not operate on the Kenai or Kasilof Rivers, or out of any Special Management areas without this permit.

In order to be able to actually participate in the guide/charter industry on the Kenai Peninsula you must, after meeting all the above requirements and criteria, you must register with the Alaska Department of Fish and Game. Of course, all the different agencies involved require that you carry on your person or in your vessel all the permits, requirements, licenses and documentation. I am not absolutely positive, but I believe that the charter industry on the Kenai Peninsula is the most highly regulated charter industry in the world. I have had the opportunity to meet with members of other charter fleets involved in sportsfishing in other areas of the State of Alaska and the United States, and I have found that they are not even closely regulated to the extent that Kenai Peninsula charter companies and guides are.

I am trying, in an attempt to understand what the task force is really trying to accomplish, asking myself do we really need more regulations and government control. Presently, as you can see, in order to operate on the Kenai Peninsula, the imposed requirements already far exceed those outlined in the draft proposal before me. I believe that the task force, the mission and the recommended restrictions serve no useful purpose. This whole affair seems to be another layer of government without performing any useful benefit, which is contrary to the wishes of the Alaska Legislature. Mr. Vincent-Lang, do you really believe that those of us involved in the charter/guide industry on the Kenai Peninsula need more regulations and that we should be required to have additional licenses? It would seem that the Alaska Department of Fish and Game already has adequate guide/charter reporting requirements in place. This appears to be a creation of more reporting requirements and restrictions which may well be conflicting with present restrictions and reporting guidelines.

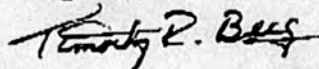
Somehow I believe that members of the task force are not aware of what is involved to operate or guide on the Kenai Peninsula. Evidently, they do not have to meet the same requirements that we do, or they would not be proposing any additional licensing. Possibly, there is a hidden agenda behind this proposal. I would suggest that all the operators from western Alaska and from southeast Alaska become involved in the charter business on the Kenai Peninsula and then they would understand what it is like to be over-regulated and then they would not support the proposal they have put forth.

Certain aspects of the sportsfishing/charter business has not been addressed in the proposal. For example, what about independent contractors. What about court law, how is liability responsibility viewed should this proposal, or some form of it, be adopted? A close evaluation by our legal counsel indicates that this proposal, should it be adopted, may be a violation of the Commerce Clause and a further violation of the Fair Labor Standards Act.

Any attempt to redefine what constitutes guide services is certainly a trespass into already known waters. Further, an attempt to initiate new requirements and standards in already chartered waters may well result in a conflict which leads the guide and charter operators in a constant position of violation. It does not seem beneficial to have duplicative but non-conforming requirements and standards.

In conclusion, possibly there should be certain area exemptions to any new proposals as adequate restrictions and guidelines already exist in certain areas, in particular the Kenai Peninsula. I respectfully submit that this approach should not be applicable to the Kenai Peninsula or the Cook Inlet guides and operators. Any possible benefit would surely be outweighed by the burden of this additional layer of bureaucratic state-wide licensing proposal. In any event, at the minimum, a proposal as important as this needs a thorough and well thought evaluation, then must be re-drafted in non-ambiguous, specific language and distributed throughout the industry while offering an adequate opportunity for public comment so the public and decision makers may be adequately informed.

Regards,



Timothy R. Berg
President, Alaskan Fishing Adventures, Inc.

ALASKA PRIVATE GUIDE SERVICE

Don Duncan, Registered Guide

299 Alvin Street

Fairbanks AK 99712

907-457-8318

Nov. 27, 1995

I ask that the Board of Fish, the House Special Committee on Fisheries, and the Fishing Guide licensure task force to recognize and admit or refute and defend the following statements #1-45.

- 1) The legislature has repeatedly failed to pass a sport fishing guide licensure statute because of opposition from the guides and the public.
- 2) The appointed task force has no voting representative representing the interior and northern regions.
- 3) The Task force was appointed in Anchorage with no prior notice and was pro-licensure from the beginning.
- 4) The task force, the Board of Fish, and the House Special Committee on Fisheries initially made no effort to obtain the list of Registered fishing guides from the Dept of F.&G. and contact them for input or opinions.
- 5) Fish and Game's primary need is for information on how many fish are caught, where they are caught. Who catches them and whether they are guided or un guided is not a primary concern of management but rather a concern of sport/commercial/subsistence and resident, non-resident and non-resident alien allocations.
- 6) Licensure will not stop illegal guiding including operating with out use permits, poaching, etc...
- 7) Licensure as apposed to registration, will place substantial and sometimes insurmountable road blocks in front of small subsistence fish guiding operations particularly village guides and part time guides.
- 8) Road Blocks such as USCG Licensure and other will cost all guiding operations time, trouble and money and that additional cost will affect small operations proportionally more. (Beat down the small guy run him out of business and make him an outlaw.)
- 9) Costly Road blocks will encourage non compliance from small subsistence guides, therefore actually creating violators.
- 10) The Interior and Northern Regions do not have the problems (over crowding, foreign operators, mother ships, poaching, lack of enforcement, etc...) that cause SOME S.E. S.C. & S.W. guides to ask for licensure.
- 11) The Interior Region of the Dept. of Fish & Game does not recommend licensure and feels that their needs can be adequately met with the current registration and harvest questionnaires.
- 12) The words "confidential information", as used in context with guides reporting, really means that the information can and is routinely forwarded to and used by many different federal, state and local agencies including, F&WP, Child Support Enforcement,

Workman's Compensation Division, et al, and the "secret" information may very well wind up as a topic of discussion at a public meeting of the Fish Board, or wind up in the public's hand via a well intentioned biologist recommending a fishing area. Trade Secrets become Public Information.

13) The actual dollar value of the contribution fish guides make to the state's economy is not known.

14) The actual value to the economy is NOT relevant to management concerns, however it IS very relevant to the determination of allocations between sport and commercial. The value of a sport caught fish is generally 27 times that of a commercially caught fish.

15) The BGCSB was sunsetted because enough guides contacted their legislators and requested sunseting because the board was out of control and not in touch with the industry's needs.

16) The BGCSB's costly regulations/requirements and definitions should not be used to make mirror images for fish guiding.

17) The USCG has extremely limited enforcement in fresh water.

18) The USCG has not been North of the Alaska Range in 35 years.

19) The USCG has no aids to navigation on almost all "Navigable Rivers".

20) The USCG does not really want to be annoyed with licensing River fishing guides and routinely loses licensure paper work.

21) The Dept of Natural Resources only attempts to police those operators that have a permit and turns a Blind Eye towards most "ECO-TOUR" operators.

22) The minimum use fees established by DNR are high and will affect small operators more negatively. Currently the minimum use permit for hunting guides is \$350 for the first minute of State land use.

23) Large Lodge operators are exempt from the permit if the clients fly back to the lodge nightly, while the camp out guide or float guide must pay for the permit. (Minimum \$350)

24) Conflicts between user groups (sport vs guided sport vs commercial vs. subsistence) will not be solved by licensure.

25) Licensure is the first step required to restrict guides to areas and subsequently to limit clients or kick guides out of popular (crowded) areas. And this appears to be the Board's and the task forces' long range intention.

26) F&G has known for some time the names of all registered fishing guides, and for 4 years the names of some if not most of the operating guides.

27) F&G has seldom, if ever in some areas, directed surveys or questionnaires to guides requesting the information F. & G. say they need.

28) F&G, seldom, if ever, has not allowed guides to tag fish in remote unstudied areas. They have repeatedly refused free help and free information.

29) If guides were licensed, non-resident guides may not be restricted more so than resident guides.

30) Guided fishermen contribute more to the state economy than unguided fishermen.

31) Non-resident fishermen pay more license fees to the state than residents.

- 32) Guides do not control access, allocations or bag limits the state controls them. No differentiation is made for guided or unguided fishermen concerning allocation or bag limits.
- 33) The State continues to under-promote the guided fishing industry and sport fishing as a whole, and when the state does promote, it promotes the areas where crowding and conflict already exist. The State has thrown fuel on the fire in "problem" areas, while completely ignoring the Interior and Far North. The State gives millions to the AVA and ATMC to promote tourism, unfortunately the AVA and ATMC do not promote fishing or hunting at any realistic and responsible level. Non-residents fishermen are recruited to this state almost exclusively by commercial operators (guides/transporters/outfitters).
- 34) The Board of Fish and the task force know that licensure as being discussed (Like a hunting Guide/outfitter) will result in driving many small operations out of business or make them outlaws.
- 35) The Dept. of Commerce and Economic Development has never economically developed any guiding industry.
- 36) Licensure, will drive up the cost of providing a guided fishing trip significantly, which will cost guides lost business as fishermen elect to fish unguided.
- 37) F&WP enforcement problems will not be solved by licensure.
- 38) Requiring insurance and First Aid/CPR cards are costly cosmetics and should be left up to the individual operator.
- 39) The State takes on Liability when it requires licensure.
- 40) Deaths and injuries have never and will never substantially, hurt the industry, or be prevented by, licensure, insurance, or CPR/ F.A.
- 41) Horror stories of over-harvest by illegal guides is a problem best solved by enforcement not licensure. Over harvest by a single large mobile guiding operation is not solved by licensure.
- 42) The biggest problem facing the guiding industry is the low allocation numbers given to sport fishermen and the emergency closures that result from commercial over-fishing.
- 43) The Board of Fish has historically been slanted toward commercial fishing interests.
- 44) The Interior and Far North Regions do not have a sport fishing representative on the board or the task force.? Virgil represents the Yukon River commercial interest, and Goodhand reps PWS.
- 45) The Interior Region and Far North should be left out of any licensure requirements. The fishing guides here do not want or request it.
- 46) The cost of Licensure, as proposed, are as follows
First Aid/ CPR card \$100/yr. minimum
Insurance \$650/yr min.
State Land use Permit \$350/yr min.
Operators license ESTIMATED at \$50-\$75/yr min.
Guiding License ESTIMATED at \$25-\$75/yr min.
Mandatory Fishing License \$15.
Business License \$25
Total cost to the individual guiding operator is averaging \$1255.
Total cost attributable directly to licensure is averaging \$905.
Total LICENSURE cost to the industry based on 2000 guides is \$2,510,000.

Total licensure cost paid directly to the state (Business & Fishing Lic. included) is \$1,010,000.

NOTE No cost of complying with the paper work/reporting the Dept. Of F. & G. may require, nor have the cost of lost "Trade Secrets", been included.

When one carefully weighs the cost of licensure versus the benefits we see licensure does little FOR the industry, while it cost the industry and particularly small operators A LOT. The primary benefactors are the State Employees in F. & G., DNR and DCED, and the Insurance companies.

One must ask, "What tangible benefits will the individual guide/operator get for \$1255. Will the State and Insurance companies promote guided fishing more? Will it alleviate, for certain, 'problems' like mother ships, poaching, crowding, etc...? Will it tend to make more "outlaws" than we have now? Will it put small part time operators out of business? What effect/\$ cost will requiring CPR/FA cards and USCG Licenses on villagers. How does the state benefit from CPR/FA cards, USCG licenses, mandatory insurance." I believe that Licensure will just be the beginning and the tool used for bureaucratic abuse. For Example. The Task Force is recommending that "A Sport Fish Guide must have in his/her possession proof of valid and current CPR/FA training, F.&G. registration form, drivers license or Picture ID, USCG License, and Fishing License". Why must all of this bulky paperwork be in possession when it is all a matter of record at various public agencies and supposedly required to have been submitted before a license is issued? I am sure that the next step will be to make it a felony offense if you leave your wallet or brief case with all this paper work in camp as now it is with hunting guides. This is just the kind of violation F&WP can count on using to make an arrest. Forget that you have it and it is on file.

Why must a single operator guide get two Licenses, one for guiding and one for operating.

I say that if the Dept. of F. & G. wants me to provide them with valuable information then should not charge me to provide it. They should pay me for it.

I say that if the state wants me to be CPR/FA certified the state should pay for the courses just like they do with their employees.

I say that if the state wants everybody licensed by the USCG and insured the state should pay for it.

I say that the state should not be able to mandate requirements, through the DCED, that the DCED does not require of other regulated professions. For Example. Doctors are not required to carry at all times, all of their degrees and certifications. It is only a misdemeanor (maximum penalty) to practice medicine with out a license, not a felony, like it is for a hunting guide.