

THINKS

BOARD

GOLD

BOARD

SUNSET  
Guide  
BOARD

Hearing 2/14/80

Discussion 2/19/80

Letter of Intent to Speaker passed 3/11/80  
Printed in journal for 3/13/

\* (See CSHB 1032 - House Resources  
bill for continuation  
of Guide Board)



# Alaska State Legislature House

HOUSE RESOURCES COMMITTEE

FISH & GAME ISSUES  
Alvin Osterback, Chairman

Pouch V, State Capitol  
Juneau, Alaska 99811  
(907) 465-3715

## HEARING NOTIFICATIONS

<del>DATE</del>	DATE INFORMED	LETTER/PHONE	INFORMED	HEARING DATE
	2/5/80	2535	Commerce Dept. - Div. of Occupational Licensing : Ann Greggs to attend hearing	2/14/80
Sunset Review of Guide Licensing and Control Board	2/5/80	In person	Marc Jensen, Chairman of Guide Board He and other Board members to attend and testify	2/14/80
	2/5/80	243-3977	Professional Hunters Assoc. Pres. Phil Driver to testify	2/14/80
	2/5/80	3748	Senate Commerce Committee (sen. Bradley) (Having review in senate side)	
	2/5/80	3830	Legislative Audit - to provide performance review of Guide Board	

# Interior Wildlife Association of Alaska

Conservation Wise USE of Resources

PHONE (907) 452-3788 • BOX 60255 • FAIRBANKS, ALASKA 99701

BOARD OF DIRECTORS:

Dr. P. B. Haggland, Chairman  
H. C. "Bud" Wiese, Treas.  
William G. Stroecker  
Richard A. Burley  
William I. Waugaman  
Charles L. Gray

March 20, 1980

Representative Alvin Osterback  
Co-Chairman, Resources Committee  
House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Representative Osterback and Committee Members,

As a former member of the Guide Board, I have an abiding interest in its success. Any objective study or audit of the Board will show that a lot has been accomplished in the face of adversity. The Board, through its dedicated chairman, has accomplished the near-impossible in straightening out and bringing some degree of professionalism to the guiding business.

Because of this, we are distressed that a more positive report regarding the sunset review did not come out of your committee (House Journal, No. 29, 3-13-80). We are particularly concerned about paragraphs 5 and 5a. Surely the clean bill given the Board by the Division of Legislative Audit and by the Senate Commerce Committee this year warrant better than a one year extension by your committee! What long range plans can be carried out with a restriction like that? What further miracles must the Board perform to be given a pat on the back and encouraged rather than have additional road blocks thrown in the way?

Judging from Representative Rick Halford's request to the AG's office for a legal review of the Board, he may have had an adverse affect on your committee's report. It would appear to us, based on wording in Halford's request, that his personal and family problems with the Board may be coloring his views.

It is rumored in Fairbanks that Representative Halford has had lucrative summer flying contracts for the Game Department. Until this is checked out, we can only question the propriety of such practices by a legislator and wonder about conflict of interest problems--moral, if not legal. Maybe the AG should be asked about this?

The Guide Board needs assistance and encouragement, not unnecessary impediments. Much has been accomplished and much more can be accomplished if the Board is given a chance. It doesn't appear your committee is giving it that chance.

Sincerely,  
Interior Wildlife Assoc.

*Bud Wiese*  
Bud Wiese  
Director

cc: Committee Members

"Concerned Sportsmen"

copy

Provided by:  
Div. of Occupational  
Licensing

STATE OF ALASKA  
Guide Licensing and Control Board  
May, 1979

Findings

The Guide Licensing and Control Board functions to establish guiding areas, limit the number of guides in areas, and assure that a guide is competent enough to care for himself and others in the remote setting. Guides are also concerned with environmental conservation and animal husbandry. Regulation of this profession is in the best interests of the State and should be continued. The Board is carrying out its duties in a responsible manner and appears to be meeting needs and demands reasonably; therefore, we believe the board also should be continued. Guides and their clients are also subject to Alaska Department of Fish and Game hunting regulations.

Section 1, ch. 106, SLA 1976, provides: "Purpose. It is the purpose of this Act to protect the safety of the citizens of the state and better manage and protect its resources by licensing persons who transport hunters for hire so that reasonable standards and guidelines will be met and activities affecting the state's game resources will be more accurately monitored and assessed."

I. General Information

A. Regulated Parties

1. Master Guides
2. Registered Guides
3. Class-A Assistant Guides
4. Assistant Guides
5. Transporters

B. Definitions

"(2) 'guide,' 'guides' or 'guiding' means assisting another person to take game with the intent of receiving monetary or material remuneration for the services, by accompanying and directing that person personally or through a licensed assistant guide for the duration of a hunt, and not solely for the purpose of providing transportation services;

(5) 'transporting' or the 'activity of transporting' means conveying a person by any lawful means to an area for remuneration or material benefit in excess of normal operating costs, when the primary purpose of the person being conveyed is the taking of big game and the associated removing of big game meat and parts of big game after big game has been taken; big game as used in this paragraph means game which, if taken by a nonresident, would require a big game tag." (AS 08.54.240)

C. Nature and Composition of Board

1. Board members and terms:

Three-year term (no restrictions regarding consecutive terms or number of terms).

Marcus F. Jensen (Chairman)	ends June 15, 1980
Clark Engle	ends June 15, 1981
Glen Glenzer	ends June 15, 1980
Charles Keim	ends June 15, 1979
Hubert Weise	ends June 15, 1979
Norman Sutliff	ends June 15, 1979
Donald Harris	ends June 15, 1981

2. Representation:

Profession - 3  
Public = 4

3. Qualifications:

"...No more than three members of the board shall have a guide license. The other members shall have a general knowledge of the game resources of the state. A minimum of 10 years residence in the state is required for all members of the board."  
AS 08.5..010

D. Licensing Data

Current licenses (effective May, 1979)

Master guides	=	35
Registered guides	=	268
Class-A assistants	=	95
Assistant guides	=	413
Transporters	=	<u>47</u>
Total		858

All licentiates in this profession are in-State.

E. Fees

1. master guide license, annual	\$75.00
2. registered guide license, annual	75.00
3. class-A assistant guide, annual	15.00
4. assistant guide license, annual	10.00
5. transporter license	10.00
6. examination fee	25.00

(Also subject to Fish and Game fees under AS 16.05.340(e).)

F. Board Revenues and Expenditures

	FY '76	FY '77	FY '78	FY '79
Receipts	\$39,054.64	\$39,025.50	\$41,882.00	\$41,601.00
- refunds	<u>254.64</u>	<u>330.00</u>	<u>265.00</u>	<u>605.00</u>
Total	\$38,800.00	\$38,695.50	\$41,617.00	\$40,996.00
Expenditures				
Transportation	2,913.37	2,607.63	3,457.12	3,042.11
Per Diem	5,213.88	5,057.75	8,840.68	6,672.80
Phone	382.99	569.68	815.01	813.13
Printing, Adver. & Postage	966.17	1,592.27	2,584.38	626.51
Fees & Services	300.00	430.00	362.00	
Rents, Leases & Other	<u>293.90</u>	<u>-</u>	<u>768.98</u>	<u>3,094.70</u>
Total	<u>\$10,070.31</u>	<u>\$10,257.33</u>	<u>\$16,828.17</u>	<u>\$14,249.25</u>
Surplus	\$28,729.69	\$28,438.17	\$24,788.83	\$26,746.75
Deficit	-	-	-	-

(EXCLUDES DIVISION OF OCCUPATIONAL LICENSING ADMINISTRATIVE OVERHEAD)

G. Complaints

Enforcement of Guide Licensing and Control statutes and regulations is the responsibility of the Department of Public Safety, Division of Fish and Wildlife Protection. An Anchorage based Assistant Attorney General is specifically designated for the Board. Sixty-

one investigations were reported to have been conducted by the Division of Fish and Wildlife Protection during the period from April, 1977 through April, 1979. During this same period 35 accusations were filed for disciplinary hearings before the Board.

## II. Analysis

### A. To what extent has the Guide Licensing and Control Board operated in the public interest?

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The Board operates to protect the public interests by controlling hunting activity, promoting hunter safety, and protecting wildlife resources. Accordingly, the Board has statutory responsibility for: (1) preparation, grading and administration of examinations; (2) passing on applicant qualifications; (3) regulation of guide activity and performance standards; (4) maintaining a current register; (5) maintaining and publishing a list of active registered or master guides; (6) regulating guide activities and conduct; (7) revocation, denial and suspension of licenses; (8) establishing geographical guiding quotas; and (9) adoption of procedural and substantive regulations concerning guiding.

Special permit provisions exist for qualified applicants who are limited by language barriers. Candidates for examination who may not fully understand the English language may be given the examination orally in their native language. The Board has recently concentrated a great deal of effort in recruiting qualified guides from remote bush and coastal areas. A separate guiding district has been created (making a total of 27) which includes all western, northwestern and northern Alaska coastal areas north of latitude 50° north for the purpose of regulating marine mammal hunting. Board members have traveled to outlying villages to educate the populace on guide qualifications and to take applications for licensure. Meetings in Nome and/or Kotzebue are planned in 1979 assuming an Arctic guide program is started.

Examinations given by the Guide Licensing and Control Board are Board constructed. Only applicants for registered guide status must take a written examination. Oral examinations are administered by the Board to candidates for both registered and master guide. A passing score of 80% must be achieved. Even though the Board has failed applicants on the basis of the oral examination, it has not made or kept a record of these proceedings. The Board should record all oral examinations in support of its determinations and should ensure that its reasons for denial of applications and licenses are cited in meeting minutes and in notices to the applicant. Review indicated that this procedure is not always followed.

State licensure constitutes exclusive permission to engage in an activity that would otherwise be unlawful. Board procedures are designed to assure that those persons so licensed and engaged are qualified by virtue of past experience and demonstrated competence.

The Anchorage office of the Division of Fish and Wildlife Protection maintains records and files on all enforcement activities and on all guides. These records are complete and up to date. Individual guide files contain all relevant information from initial licensure to latest renewal. A transfer of the Board and regulation to the Division of Fish and Wildlife Protection should be given consideration, particularly in view of the fact that the division has responsibility for enforcement of guiding laws. In a memorandum dated November 8, 1978, to the Office of the Governor, an official of the Department of Public Safety indicated that such a transfer would be favorable. The Board also has indicated support for this proposal.

The Guide Licensing and Control Board is active in disciplinary proceedings concerning the profession. A number of hearings have been held by the Board and subsequent action taken. Viability of enforcement is

largely due to authorization of investigation, administrative support services and Department of Law assistance assigned particularly to guide activities.

AS 08.54.190(a) provides that all licenses expire every year on December 31. As of May, 1979, 858 licenses were in effect and the number increases every year. A statutory amendment should be considered which would allow for biennial renewal.

AS 08.54.200(c)(3) makes revocation of a guide license mandatory upon conviction of two violations of federal or State sport fish, game or guide statutes or regulations. The Board is presently given no discretion or latitude by which it may consider the seriousness of offenses or lesser disciplinary action such as suspension; the most minor violations must result in license revocation. SB 101, with which the board is in agreement, was introduced during the 1979 session of the Legislature (see Appendix A). Passage of this bill would allow the Board to take disciplinary action commensurate with the nature of offenses.

Transporters are required by AS 02.05.040 (the Alaska Air Commerce Act of 1960) to have "in force a certificate issued by the commission [Alaska Transportation Commission] authorizing that person to engage in air commerce as a certificated carrier, contract carrier, or air taxi operator." Title 02, § 170(f), also requires filing of game transporter reports with the Department of Fish and Game. The Alaska Business Act (43.70) requires that transporters maintain a current business license. An abundance of regulations covering this subject also exists under AS 16.05, Fish and Game Code. Licensed guides are exempt from license requirements for transporters. In view of the enforcement and regulatory difficulties encountered in this area, and the fact that transporters are otherwise regulated, it is suggested that appropriate revisions be made to Guide Licensing statutes.

12 AAC 38.055 provides for a limited time waiver of guide area use requirements in case of death of a permit holder. During this period "an heir may apply to the board for a reassignment of the permit to a person designated by the heir" (emphasis added). In case of mental incompetence, a guardian may, during this same limited period "apply to the board for a reassignment of the permit to a person designated by the guardian" (emphasis added). It is questionable whether designation of permit holders should be done by heirs and guardians and whether preference should be given by the Board to persons so designated. It should not be a function of a State board to protect the monetary interests of a licensee. Rather, the Board should consider the qualifications of all applicants, as is done in other instances, and grant permits on that basis alone.

- B. To what extent has the operation of the Guide Licensing and Control Board been impeded or enhanced by existing statutes, procedures and practices which it has adopted, or any other matter, including budgetary, resource and personnel matters?

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Resources and services provided for this Board far exceed those provided for other boards and commissions under Title 8. As previously noted, enforcement and investigation of its statutes and regulations is adequately handled by the Department of Public Safety. The Board has been assigned an Assistant Attorney General, located in Anchorage, and issues have been pursued actively, both by the Department of Law and by the Board. Other support staff is provided by the Division of Occupational Licensing and is presently adequate. Employee turnover has impeded to some extent continuity and follow through on Board requests.

The Board has not been particularly impeded by budgetary constraints. Meetings and/or hearings have been scheduled as necessary. A special appropriation in the amount of \$10,000 was made by the Legislature in 1979 to allow the Board to conduct hearings and formulate procedures

related to hunting of marine mammals. Fees and revenues for all boards and commissions under the jurisdiction of the Division of Occupational Licensing are collected through the Division and are deposited into a general fund. Monies deposited and withdrawn are identified by codes so that direct board revenues and expenses may be determined.

The Board has expressed a desire to repeal statutes in Title 8 concerning transporters (§§ 142, 144 and 146). Interpretation of AS 08.54.130(2) has apparently caused some confusion in that it is not clear whether the supervisor of a Class-A assistant should be in the guide unit or merely giving direction from any location in the State. AS 08.54.190(a) should be amended to allow for biennial rather than annual renewal of licenses. SB 101, introduced in 1979, would give the Board some latitude in disciplinary actions where guide have been convicted of federal or State sport fish, game or guide laws.

Examinations for registered and master guides are given once a year in November or December, in Anchorage. Control and security of testing materials is maintained by the Department of Public Safety. Board regulations state that applicants who fail either the written or oral test may not be reexamined for six months. An annual examination procedure means that an applicant who fails will miss an entire subsequent hunting season before he can take the next examination. It is suggested that consideration be given to scheduling two examinations each year in two areas of the State to coincide with regular Board meetings.

Public members are included in the composition of the Board. Total membership of seven is felt to be adequate. Terms of membership are three years, however, at least two members have served since the Board was established in 1973.

C. To what extent has the Guide Licensing and Control Board recommended statutory changes which are generally of benefit to the public interest?

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In 1976 statutory amendments concerned regulation of transporters and "housekeeping" items. One significant 1976 amendment mandated that the Board "establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota" (AS 08.54.040(a)(8)). The Board has recently accomplished this directive.

Statutory recommendations made by the Board have been cited previously.

- D. To what extent has the Guide Licensing and Control Board encouraged interested persons to participate in and report to it concerning the making and effect of its regulations and decisions, or to report to it concerning the effectiveness, economy, and availability of service which it has provided?

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Guide Board meetings and hearings are well attended by interested parties. Petitioners before the Board will not even have their petitions considered unless they or their representative(s) are present. Any party possibly affected by a petition is also notified that the matter will be discussed so they may participate.

There is evidence to indicate that Board members have made themselves visible and available to members of the public and the industry. Some members have spent a considerable amount of time on personal correspondence and even personal visits with interested parties in some cases. For instance, members have traveled to Nunivak to meet with and recruit potential guides.

Public interests are felt to be furthered by the presence of public members on professional boards. "In recent years a number of states have added one or more public members (citizens with no particular interest in the occupation or profession governed by the board) to licensing boards in an effort to ensure that the interests of the public would be represented in decisionmaking."<sup>1</sup> The State of California, which provides for a one-third public membership on health care boards and a public majority on others, has indicated that its experience with public members has been highly rewarding.

E. How efficiently are public inquiries or complaints regarding the Guide Licensing and Control Board processed and resolved?

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Routine correspondence regarding Board activities may be responded to by the Division of Fish & Wildlife Protection, the Division of Occupational Licensing or by individual Board members. Review of Board files indicates that responses generally are made in an appropriate and timely manner.

Sixty-one investigations were reported to have been conducted by the Division of Fish and Wildlife Protection during the period from April, 1977 through April, 1979. Thirty-five Accusations for Disciplinary Hearings before the Board were filed during this time.

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<sup>1</sup>Shimberg, B. and Roederer, D., Occupational Licensing: Questions a Legislator Should Ask, The Council of State Governments, Lexington, Kentucky, March, 1978, pg. 20.

At least one complaint regarding the examination was filed with the Office of the Ombudsman and was determined by that office to have been partially justified.

- F. To what extent does the Guide Licensing and Control Board present qualified applicants to serve the public?

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Individuals seeking licensure must submit fees and qualifying documents to the administrative agency for consideration by the Board. Examinations for registered and master guides are given annually. Applicants who are qualified and/or demonstrate a specified level of knowledge and proficiency are issued a license.

Licensure does not, however, guarantee assignment of hunting units. This is also determined by past use, animal resources and number of guides already in the area, and compatibility with present users and facilities. Current policy limits the number of hunting units that a guide may be certified for; past assignments in excess of the general limit were not rescinded but once lost or forfeited are usually re-assigned to another qualified applicant. These procedures are intended to comply with § 040(1)(8).

- G. To what extent have State personnel practices, including affirmative action requirements, been complied with by the Guide Licensing and Control Board in its own activities, and in its area of activity or interest?

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Board staff consists of the support services of a licensing examiner employed by the Division of Occupational Licensing (also responsible for

two other boards) who is hired through the State Personnel System and is subject to affirmative action.

Licenses are issued on the basis of specific criteria. Affirmative action requirements are not applicable to these licensure qualifications.

H. To what extent are statutory, regulatory, budgetary, or other changes necessary to enable the Guide Licensing and Control Board to better serve the interests of the public?

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Transfer of licensing and record keeping functions to the Department of Public Safety would contribute to continuity and centralization of Board operations. Enforcement and investigative services provided by that Department, and the services of the Department of Law, have proved satisfactory.

AS 08.54.190(a) should be amended to allow for biennial renewals. § 200(c)(3) should be amended to vest some disciplinary discretion with the Board in instances concerning convictions of minor violations. §§ 142, 144 and 146, concerning transporters, should be repealed. This intent was also expressed by the Board by resolution at its April 3, 1979 meeting.

The Board should review its regulations with respect to implications that heirs and guardians of permit holders may designate successors. The Board should also consider regulatory clarification of "supervision" as cited in § 130(2).

The Board should reconsider its policy of scheduling examinations only annually and only in Anchorage.

## Article 1. Guide Licensing and Control Board.

### Section

10. Creation and membership of board
20. Appointment and term of office
30. Chairman of board
40. Powers and duties
45. Special guiding permit
50. Board regulations
60. Board hearing
70. Compensation and expenses

Sec. 08.54.010. Creation and membership of board. There is created the Guide Licensing and Control Board consisting of seven members. No more than three members of the board shall have a guide license. The other members shall have a general knowledge of the game resources of the state. A minimum of 10 years residence in the state is required for all members of the board. (§ 1 ch 17 SLA 1973)

Sec. 08.54.020. Appointment and term of office. The members of the board shall be appointed by the governor and confirmed by the legislature for staggered terms of three years or until their successors are appointed. Initial terms are as follows: three members for one year, two members for two years, and two members for three years. A member may be removed at the pleasure of the governor. (§ 1 ch 17 SLA 1973)

Sec. 08.54.030. Chairman of board. The board shall elect one of its members as chairman. (§ 1 ch 17 SLA 1973)

Sec. 08.54.040. Powers and duties. (a) Except as provided in § 45 of this chapter, the board shall

- (1) prepare, grade and administer examinations;
- (2) determine and pass on qualifications of applicants for licenses and authorize the issuance of licenses to those who qualify;
- (3) establish guide performance standards and regulate activity;
- (4) compile, maintain and publish a guide register of guides who have not been convicted of a violation of a federal or state sport fish, game, or guiding statute or regulation; a guide listed in the register whose license is revoked or suspended shall be removed from the register while his license is revoked or suspended;
- (5) compile, maintain and publish a record of registered or master guides who have completed a contract hunt in any of three years immediately preceding the publishing of the record;

(6) prohibit guiding activities which are unsportsmanlike, unethical, unsafe, against principles of conservation, degrading to the guiding profession, or which adversely affect the natural resources;

(7) after a hearing, revoke, suspend or deny renewal of a license in accordance with § 200 of this chapter;

(8) establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota; preference shall be given to qualified available and willing licensed guides who reside within the designated game unit or subunit.

(b) If a person is unable to competently understand the written portion of an examination given under (a)(1) of this section, he shall be given the complete examination orally in a language which he understands. (§ 1 ch 17 SLA 1973; am § 1 ch 133 SLA 1976)

Sec. 08.54.045. Special guiding permit. This chapter does not limit the power of the board or its authorized designee, to issue a special guiding permit, in place of a guide license, to a person to guide in a specifically designated area, if the person is considered sufficiently experienced to perform the services of a guide and is limited solely by language barriers from securing a regular guide license. (§ 1 ch 17 SLA 1973)

Sec. 08.54.050. Board regulations. The board shall adopt procedural and substantive regulations, under the Administrative Procedure Act (AS 44.62), required by this chapter or reasonably necessary for its administration. (§ 1 ch 17 SLA 1973)

Sec. 08.54.060. Board hearing. The Administrative Procedure Act (AS 44.62) applies to proceedings and hearings under this chapter. (§ 1 ch 17 SLA 1973)

Sec. 08.54.070. Compensation and expenses. Members of the board receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards. (§ 1 ch 17 SLA 1973)

## Article 2. Licensing.

### Section

- 100. Qualifications for a master guide license
- 110. Qualifications for registered guide license
- 120. Qualifications for a class-A assistant guide license
- 130. Privileges and limitations of class-A assistant guides
- 140. Qualifications for assistant guide license
- 142. Qualifications for transporter license

- 144. Restriction to transportation
- 146. Transporter report
- 150. Responsibility of registered or master guide for violations
- 170. License fees
- 180. Examination fee
- 185. Additional fees
- 190. Expiration and renewal
- 200. Grounds for disciplining a licensee
- 210. Unlawful acts
- 220. Injunction against unlawful action

Sec. 08.54.100. Qualifications for a master guide license. A person is entitled to be licensed as a master guide if he

(1) has legally hunted in the state for a part of each of 10 years during which time a substantial source of his income was from guiding or related activities directly contributing to his experience and competency as a guide;

(2) meets all the requirements of a registered guide and has been actively engaged in licensed guiding activities in the state for at least five years preceding application;

(3) has not been convicted of a violation of federal or state sport fishing, game or guiding laws or regulations within the preceding five years;

(4) has consistently performed in a superior manner as evidenced by required reports submitted to the board and by inquiries made by the board to at least two of the guide's clients of record; and

(5) meets additional qualifications which the board may require. (§ 1 ch 17 SLA 1973)

Sec. 08.54.110. Qualifications for registered guide license. A person is entitled to be licensed as a registered guide if he

(1) is 21 years of age or more;

(2) is a resident of the state and maintains a permanent place of abode in the state;

(3) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of trophies, first aid and photography;

(4) is familiar with the terrain and transportation problems in the district for which the license is requested;

(5) has passed the qualification examination prepared and administered by the board;

(6) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a crime involving moral turpitude;

(7) has legally hunted in the state for all or part of each of five years in a manner directly contributing to his experience and competency as a guide;

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

(9) submits a written recommendation to the board from a registered guide for whom the applicant has worked;

(10) is capable of performing the physical duties associated with guiding activities;

(11) has been favorably recommended in writing by two hunters that he has guided or assisted in guiding during each year of his three years as an assistant guide, whose recommendations have been solicited by the board from a list provided by the applicant;

(12) meets additional qualifications which the board may require. (§ 1 ch 17 SLA 1973)

Sec. 08.54.120. Qualifications for a class-A assistant guide license. A person is entitled to be licensed as a class-A assistant guide if he

(1) has been employed for at least one season as a licensed assistant guide;

(2) has had at least 20 years experience in the guide district in which he is to be employed; for the purposes of this paragraph physical presence at some time of the year during each of the 20 years constitutes adequate evidence of experience, and military service outside the state for no more than six years shall be accepted as part of the required 20 years experience;

(3) has been recommended in writing as qualified by a registered or master guide to the board. (§ 1 ch 17 SLA 1973)

Sec. 08.54.130. Privileges and limitations of class-A assistant guides. A class-A assistant guide

- (1) may not contract for hunts;
- (2) shall be under the supervision of a registered or master guide who has contracted with the client for whom the class-A assistant guide is conducting the hunt;
- (3) may take charge of a camp and conduct hunts from it without the registered or master guide necessarily being present in the area if the registered or master guide is physically present in the state and is actively supervising in guiding activities. (§ 1 ch 17 SLA 1973)

Sec. 08.54.140. Qualifications for assistant guide license. A person is entitled to be licensed as an assistant guide if he

- (1) is 19 years of age or more;
- (2) is a resident of the state;
- (3) is favorably recommended to the board, in writing, by a registered guide;
- (4) meets additional qualifications which the board may require;
- (5) is in sound physical condition. (§ 1 ch 17 SLA 1973)

Sec. 08.54.142. Qualification for transporter license. (a) No person may engage in the activity of transporting unless he is licensed as a transporter under this chapter. A person may be licensed as a transporter if he

- (1) is a resident of the state;
- (2) is familiar with the terrain and transportation problems in the district or districts for which the license is requested;
- (3) obtains a business license to do business as a transporter under AS 43.70.030.

(b) No person may engage in the activity of transporting by air without an air commerce certificate as required by AS 02.05.040. (§ 2 ch 106 SLA 1976)

Sec. 08.54.144. Restriction to transportation. (a) A licensed transporter may transport persons whose primary purpose is the taking of big game or the associated removing of big game meat and parts of big game, with the intent of receiving monetary or material remuneration for the transportation.

(b) Air carriers who transport person between airports, landing strips or other landing areas officially listed in the United States government Flight Information Publication, Alaska Supplement, as revised, or the United States government Sectional Aeronautical Charts, as revised, are exempted from the license requirements for transporters under this chapter but shall comply with the reporting provisions as prescribed in AS 02.05.170(f).

(c) Master guides, registered guides, class-A assistant guides or assistant guides are exempted from the license requirements for transporter under this chapter but shall comply with the reporting provisions as prescribed in AS 02.05.170(f). (§ 2 ch 106 SLA 1976)

Sec. 08.54.146. Transporter report. A transporter shall maintain a record of (1) the names and addresses of all persons he transports; (2) the type of game transported; (3) an estimate of the quantity of meat transported; (4) the date of transporting; and (5) if known, the locality where the game was taken. The report shall be submitted to the Department of Fish and Game within 90 days after transporting the game. After receiving a report required under this section, the Department of Fish and Game shall send a copy of it to the Department of Public Safety. (§ 2 ch 106 SLA 1976; am § 4 ch 133 SLA 1976)

Sec. 08.54.150. Responsibility of registered or master guide for violations. A registered or master guide contracting for a hunt is equally responsible under § 200 of this chapter for a violation of a federal or state sport fish, game or guide statute or regulation committed by a class-A assistant guide or assistant guide while in the course of his employment. (§ 1 ch 17 SLA 1973)

Sec. 08.54.170. License fees. (a) License fees for engaging in the profession of guiding are:

(1) master guide license, annual.....	\$75
(2) registered guide license, annual.....	75
(3) class-A assistant guide, annual.....	15
(4) assistant guide license, annual.....	10

(b) The license fee for a master guide, registered guide, class-A assistant guide or assistant guide license is in addition to the fee required for a hunting or fishing license.

(c) The license fee for a transporter is \$10. (§ 1 ch 17 SLA 1973; am § 3 ch 106 SLA 1976)

Sec. 08.54.180. Examination fee. An applicant for a guide examination shall pay a fee of \$25. (§ 1 ch 17 SLA 1973)

Sec. 08.54.185. Additional fees. In addition to the license and examination fees provided for under this chapter, master guides and registered guides are subject to fees imposed under AS 16.05.340(e). (§ 4 ch 268 SLA 1976)

Sec. 08.54.190. Expiration and renewal. (a) A master guide, registered guide, class-A assistant guide, assistant guide or transporter license expires on December 31, following issuance.

(b) No license may be issued to a class-A assistant guide or assistant guide who has failed to renew his license for two consecutive years unless he again meets the qualifications for initial issuance of the license.

(c) A master or registered guide who fails to renew a license is not required to requalify under § 100(2) or § 110(8) of this chapter, respectively. (§ 1 ch 17 SLA 1973; am § 12 ch 127 SLA 1974; am § 4 ch 106 SLA 1976)

Sec. 08.54.200. Grounds for disciplining a licensee. (a) The board shall hold a hearing to determine if disciplinary action is necessary if

(1) complaints concerning the licensee have been filed with the board from three or more clients of separate parties; or

(2) a licensee has been charged with a violation of federal or state sport fish, game or guide statutes or regulations; or

(3) a licensee has been convicted of a violation of federal or state sport fish, game or guide statute or regulation.

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

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

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

(c) After a hearing, the board shall revoke a license if the board finds that the licensee

(1) does not meet the qualifications specified by statute or regulation for the class of license held;

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

(3) has been convicted of two violations of federal or state sport fish, game or guide statutes or regulations.

(d) No person who is disciplined under this section may engage in any guiding or transporting activity during the period of license revocation or disciplinary action. No person licensed under this chapter may hire or work for a guide whose license is suspended or revoked under this section.

(e) If the board revokes a license it shall notify the Department of Revenue, and the person whose license has been revoked shall return the license to the Department of Commerce and Economic Development. (§ 1 ch 17 SLA 1973; am § ch 43 SLA 1975; am § 5 ch 106 SLA 1976; am § 47 ch 218 SLA 1976)

Sec. 08.54.210. Unlawful acts. (a) It is unlawful for

(1) a master guide, registered guide, class-A assistant guide, assistant guide or transporter to fail to timely report to the Department of Public Safety, division of fish and wildlife protection, and in no event later than 30 days, violations by a client of a state fish, game or guiding statute or regulation;

(2) a master guide, registered guide, class-A assistant guide, assistant guide or transporter to aid the commission of a violation of this chapter or of AS 16.05 or a regulation promulgated under either chapter, or permit the commission of a violation in his sight without attempting to prevent it, short of using force, and without reporting it;

(3) a person to guide or transport as defined in this chapter without being licensed under this chapter and without having the license in his actual possession; however, for purposes of transporting by air, in the case of a corporation, company, partnership or other business entity, the license may remain at the principal place of business of the business entity;

(4) a person to advertise as or represent himself to be a licensed master guide, registered guide, class-A assistant guide, assistant guide or transporter without being currently licensed, or to falsely advertise services;

(5) a person to guide as defined in this chapter without having a current valid hunting and fishing license in his possession.

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

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

(5) A person who violates (a)(1)-(6) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both, and may have his license revoked for a period up to five years. However, a person who engages in guiding or transporting activity during the period his license is suspended or revoked under this chapter is guilty of a felony punishable, upon conviction, by a fine of not more than \$5,000 and by imprisonment for not less than one year nor more than three years. In addition to punishment for a felony, all guns, fishing tackle, boats, aircraft, automobiles or other vehicles, camping gear and other equipment and paraphernalia used in, or in aid of, guiding or transporting activity engaged in during the period of suspension or revocation shall be confiscated by persons authorized to enforce this chapter. A person who violates (a)(7) of this section, upon conviction, is subject to the same license revocation provision as for a violation of (a)(1)-(6) of this section and, in addition, is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both. (§ 1 ch 17 SLA 1973; am §§ 3, 4 ch 43 SLA 1975; am § 6 ch 106 SLA 1976; am § 3 ch 133 SLA 1976; am §§ 5, 6 ch 268 SLA 1976)

Sec. 08.54.220. Injunction against unlawful action. When in the judgment of the board a person or corporation or other entity has engaged in an act in violation of § 130 and §§ 200-210 of this chapter or the regulations promulgated under them, the board may apply to the appropriate court for an order enjoining the act. Upon a showing by the board that the person is engaging in the act, the court shall grant injunctive relief or other appropriate order without bond. (§ 1 ch 17 SLA 1973; am § 5 ch 43 SLA 1975)

### Article 3. General Provisions.

#### Section 240. Definitions

Sec. 08.54.240. Definitions. In this chapter

- (1) "board" means the Guide Licensing and Control Board;
- (2) "guide", "guides" or "guiding" means assisting another person to take game with the intent of receiving monetary or material remuneration for the services, by accompanying and directing that person personally or through a licensed assistant guide for the duration of a hunt, and not solely for the purpose of providing transportation services;
- (3) "resident" means a person who maintains a place of residence within the state; has not claimed residency in another state for

the immediately preceding 12 months; shows by all attending circumstances that his intent is to make this state his permanent residence;

(4) "unethical activity" means

(A) deception in any degree involving prospective or actual clients either before, during, or following contract hunts;

(B) misrepresentation either through private communication or public advertising of the nature, type, duration, cost, or other conditions of contract hunts.

(C) making a guaranty that a species or certain number of species of game will be taken on a contract hunt.

(5) "transporting" or the "activity of transporting" means conveying a person by any lawful means to an area for remuneration or material benefit in excess of normal operating costs, when the primary purpose of the person being conveyed is the taking of big game and the associated removing of big game meat and parts of big game after big game has been taken; big game as used in this paragraph means game which, if taken by a nonresident, would require a big game tag. (§ 1 ch 17 SLA 1973; am §§ 7, 8 ch 106 SLA 1976; am § 2 ch 33 SLA 1976)

CHAPTER 38.  
GUIDE LICENSINGARTICLE 2.  
GUIDE REGISTER

## Article

1. Examinations (12 AAC 38.010)
2. Guide Register (12 AAC 38.020)
3. General Provisions  
(12 AAC 38.030-12 AAC 38.190)

ARTICLE 1.  
EXAMINATIONS

## Section

## 10. Examinations

12 AAC 38.010. EXAMINATIONS. (a) The application for a guide examination must be made at least five months before the examination date on a form provided by the board. The application for examination shall include a listing of all hunters the applicant has guided or assisted in guiding during his apprenticeship and a letter of recommendation from any registered or master guide for whom he has worked.

(b) Guide examinations will be administered by the board or its authorized representatives at times and places as announced by the board.

(c) The registered guide examination will be composed of written and oral portions designed to reveal the actual qualifications of the candidate to practice guiding in the district or districts of his choice. However, a prospective guide unable to competently understand the written portion of the examination may be granted a guide license based on the outcome of the oral examination augmented by his experience. A score lower than 80 percent on either the written or oral portion of the test shall indicate inadequate qualifications. A person failing to achieve 80 percent or more on either the written or oral portion of the examination may not be reexamined for six months.

(d) A person contesting the results of any portion of the registered guide examination shall direct his appeal and the grounds therefor in writing to the chairman of the Guide Licensing and Control Board, Department of Commerce, Division of Occupational Licensing, Pouch D, Juneau, Alaska 99811, at least 30 days before the board meeting following the examination. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

## Section

## 20. Guide register

12 AAC 38.020. GUIDE REGISTER. (a) On December 31 of the register year, the names of all persons holding a master guide or registered guide license shall be entered by the board, on a register maintained by the board and shall be published for distribution to the public.

(b) All guides shall advise the board of their current address and all changes of address. (Eff. 6/28/74, Reg. 50; am 2/25/77, Reg. 61)

Authority: AS 08.54.040(a)(4) and (5)  
AS 08.54.050

ARTICLE 3.  
GENERAL PROVISIONS

## Section

30. Licenses
40. Restriction to districts
50. (Repealed)
51. Guiding area permits
52. Guide prohibited from using a guiding area not assigned to him or her
53. Application and qualification for guiding area permit
54. Reassignment of guiding area permit
55. Death or mental incapacity of guiding area permit holder
56. Changes to guiding area permit
57. Minimum use of guiding area
58. Grounds for revocation or suspension of a guiding area permit
60. Statement of financial remuneration
70. Responsibility of guide to his client
80. Survival gear
90. Presence of guide required
100. Taking of game by guides
110. Transporting meat
120. Cooperation with officials
130. (Repealed)
140. Requirements for a registered guide license
150. Requirements for a master guide
160. Improper certification
170. Improper reporting
180. Guiding ethics
190. Definitions

**12 AAC 38.030. LICENSES.** (a) A person must purchase his registered guide license within one year of passing the guiding examination or his eligibility lapses.

(b) An application for a guide license shall be made to the Division of Occupational Licensing, Department of Commerce, Pouch D, Juneau, Alaska 99811. (Eff. 6/28/74, Reg. 50)  
Authority. AS 08.54.050

**12 AAC 38.040. RESTRICTION TO DISTRICTS.** (a) A guide may conduct guiding activities only in districts for which he is certified.

(b) Twenty-six guide districts are established and defined as being identical to those areas described as game management units by the Board of Fish and Game in 5 AAC 90.010, as of January 1, 1974, with the addition of two subdistricts

(1) 18A - Nunivak Island and all waters within one mile of that island;

(2) repealed 6/6/79;

(3) 27 - Marine Mammals, including all the area between the western boundaries of districts 17, 18, 22, 23 and 26, except that area included in 18A, north of latitude 50 degrees north and east of the Convention Line of 1867 between the United States and the Union of Soviet Socialist Republics and south of latitude 75 degrees north.

(c) A guide licensed under AS 08.54 as of the effective date of this section is restricted to certification to guide in those districts for which he is certified on that date.

(d) After the effective date of this section, all guides applying for new certification are limited to a total of three districts including those districts for which they were certified as of that date.

(e) A master guide or registered guide may serve as a class A assistant guide in districts for which he is not certified.

(f) Notwithstanding any provision of this section, a guide may petition the board for a

transfer of certification to another district if he demonstrates to the satisfaction of the board

(1) that he will incur substantial hardship if a transfer is not permitted as evidenced by

(A) substantial land withdrawals from hunting within his district;

(B) significant reclassifications of land within his district;

(C) depletion of game as evidenced by actions of the Department of Fish and Game; or

(D) other demonstrations of hardship; and

(2) that he is qualified to guide in the district to which he wishes to be transferred. (Eff. 6/28/74, Reg. 50; am 2/25/77, Reg. 61; am 6/6/79, Reg. 70)

Authority: AS 08.54.040(a)(3) and (6)  
AS 08.54.050

**12 AAC 38.050. REGISTRATION OF MAIN CAMP.** Repealed 5/12/78.

**12 AAC 38.051. GUIDING AREA PERMITS.**

(a) Guiding area permits will be issued by the board to guides qualifying under secs. 53 and 54 of this chapter for exclusive or joint use of a specified area in order to limit the number of guides allowed to guide for big game animals in that area.

(b) The board will determine the size, boundaries and number of guiding areas assigned to a master or registered guide and is not limited by number or boundaries of guide districts which may be included.

(c) Each guiding area will be assigned a unique identification code. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.052. GUIDE PROHIBITED FROM USING A GUIDING AREA NOT ASSIGNED TO HIM OR HER.** No guide may contract guided big game hunts in an exclusive guiding area not assigned to him or her unless written permission to do so is obtained from the guide

to whom the guiding area is assigned. If more than one guide holds a permit for joint use of the guiding area, written permission must be obtained from each holder of a permit. The written permission must include the effective and expiration dates of use and the identity and number of the big game species to be hunted,

and must be dated and signed by all of the persons holding a permit for the guiding area. This written permission must be on the person of the guide conducting the hunt or in the base camp from which the hunt is conducted. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.053. APPLICATION AND QUALIFICATION FOR GUIDING AREA PERMIT.** (a) An applicant for initial issuance of a guiding area permit must, at the time of application and at the time the application is reviewed by the board, be a registered or master guide in good standing and must be certified in the district or districts in which the applied-for guiding area is located.

(b) In order to be considered, an applicant must submit to the board, on or before the published deadline, an application which describes the proposed geographic boundaries of the guiding area being applied for and a 1:250,000 scale map showing the proposed boundaries.

(c) Each application must include satisfactory documentation of the applicant's past use, occupancy, or financial investment in the guiding area applied for. The application may include other relevant information if it is substantiated by satisfactory documentation.

(d) The board will, in its discretion, issue a permanent guiding area permit to a qualified applicant who can substantiate his or her use, occupancy, or financial investment in the guiding area for at least three of the five years immediately preceding the published deadline for filing the application for that particular unit. The board will, in its discretion, issue a temporary guiding area permit to a qualified applicant who can substantiate his or her use, occupancy or financial investment in the guiding area for at least two of the five years immediately preceding the published deadline for filing the application for that particular unit.

(e) The holder of a temporary guiding area permit may apply for a permanent permit after one additional year of use, in the temporary guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.054. REASSIGNMENT OF GUIDING AREA PERMIT.** (a) Guiding area permits are not transferable by the permit holder. The board will, in its discretion, reassign a guiding area permit

(1) upon the death of the permit holder or upon a judicial determination that the permit holder is mentally incompetent;

(2) upon revocation or suspension of a guiding area permit;

(3) if the permit holder voluntarily relinquishes the guiding area permit; and

(4) upon application for reassignment.

(b) Under (a)(4) of this section, a permit holder may apply to the board for reassignment of his or her guiding area permit to a designated master or registered guide; the application must be made jointly by the permit holder and the designated master or registered guide. Approval of the reassignment will be given only upon a finding by the board, after notice and opportunity for a hearing, that the designated registered or master guide is qualified to guide in the area, is certified in the district or districts in which the applied-for guiding area is located, and that the reassignment is consistent with the public interest. The board will consider the designated master or registered guide's past use, occupancy, or financial investment in the guiding area and other relevant and reliable information in determining whether the designated master or registered guide is qualified.

(c) Except as otherwise provided in this chapter, an applicant for a guiding area permit which is to be reassigned must meet the requirements of sec. 53(a) of this chapter and make application in the manner prescribed for initial issuance of a guiding area permit.

(d) If an applicant cannot establish past use of the guiding area to be transferred or is not certified in the district or districts in which the guiding area is located, the board will consider experience and current use in another area similar terrain if the applicant can establish to the satisfaction of the board that he or she is competent because of other relevant factors to conduct guiding activities in the guiding area.

(e) The board will consider the recommendations of the prior holder of the guiding area permit to be reassigned and will, in areas of joint use, consider the recommendations of the other holders of permits for the guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.055. DEATH OR MENTAL INCAPACITY OF GUIDING AREA PERMIT HOLDER.** (a) Upon the death of a holder of a guiding area permit, the board will, in its discretion, grant a waiver, for a time specified by the board, of the requirements of sec. 57 of this chapter if application is made by the estate within 90 days after death. Failure to make application within 90 days is considered a voluntary relinquishment of the permit. At any time during the period of the waiver, an heir may apply to the board for a reassignment of the permit to a person designated by the heir.

(b) Upon a judicial determination that a guiding area permit holder is mentally incompetent, the board will, in its discretion, grant a waiver, for a time specified by the board, of the requirements of sec. 57 of this chapter if application is made by the permit holder's guardian within 90 days after a judicial determination of the permit holder's mental incompetency. Failure to make application within 90 days is considered a voluntary relinquishment of the permit. At any time during the period of the waiver the guardian may apply to the board for a reassignment of the permit to a person designated by the guardian. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.056. CHANGES TO GUIDING AREA PERMIT.** Petitions for changes to the size or boundary of a guiding area, for reassignment of a guiding area permit, or for any other changes affecting the guiding area, will be accepted for all guide districts and will be reviewed at a regularly scheduled meeting of the board. Each petitioner will be advised of the date and place of the meeting when his or her petition is scheduled for review. A petition will not be reviewed by the board if the petitioner or a person authorized in writing by the petitioner as his or her designee fails to appear at the time

of the scheduled review. If the petition concerns a joint use guiding area permit, each holder of a permit for that guiding area will be furnished a copy of the petition and advised of the date and place when the petition is scheduled to be reviewed and may appear before the board and present testimony relevant to the petition. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.057. MINIMUM USE OF GUIDING AREA.** Each holder of a guiding area permit must conduct at least two contracted hunts within two consecutive calendar years in the guiding area as evidenced by statements of financial remuneration filed in accordance with sec. 60 of this chapter. Failure to do so for any two consecutive calendar years may result in revocation of the guiding area permit unless the permit holder can demonstrate to the satisfaction of the board that circumstances beyond his control precluded conducting the required hunts. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.058. GROUNDS FOR REVOCATION OR SUSPENSION OF A GUIDING AREA PERMIT.** The board will, in its discretion, revoke or suspend a guiding area permit or permits if the permit holder

(1) violates a federal or state sport fish, game or guiding statute or regulation, which violation occurred while guiding;

(2) has his guide license revoked or suspended or is denied renewal of a license for violation of a federal or state sport fish or game or guiding statute or regulation other than for nonpayment of current license fees;

(3) is found by the board to have misused a guiding area. (Eff. 5/12/78, Reg. 66)

Authority: AS 08.54.040(a)(3),(6) and (8)  
AS 08.54.050

**12 AAC 38.060 STATEMENT OF FINANCIAL REMUNERATION.** (a) Before hunting with his or her client, a guide shall complete or have completed a statement of financial remuneration in triplicate on a form provided by the board for this purpose and shall state

(1) that he received financial or material remuneration for his services;

(2) the dates of the contract hunt;

(3) the species to be hunted for;

(4) the legal signature of the guide and his client;

(5) the typed or printed name and address of the guide and his client;

(6) the guiding area permit unique identify code assigned under sec. 51(c) of this chapter.

(b) The original of the statement required in (a) of this section shall be sent to the Department of Public Safety, Division of Fish and Wildlife Protection, Records Section, P.O. Box 6188 Annex, Anchorage, Alaska 99502, within 21 days after completion of the hunt.

(c) The guide is responsible for furnishing one copy of the statement to his client.

(d) One copy of the statement shall be filed in camp for the duration of the hunt and thereafter at the guide's regular place of business for four years, and shall be produced for inspection upon request by an agent of the Department of Public Safety. (Eff. 6/28/74, Reg. 50; am 5/12/78, Reg. 66)

Authority: AS 08.54.050

**12 AAC 38.070. RESPONSIBILITY OF GUIDE TO HIS CLIENT.** (a) It is the responsibility of a guide to ascertain that a client has a proper license and appropriate tags and harvest reports, in his possession, for the big game species being hunted before hunting. The guide is responsible for attaching appropriate tags to any game taken by his client and is responsible for having all game sealed or marked as required by Alaska Department of Fish and Game regulations.

(b) A guide shall take every reasonable measure to assure the safety and comfort of his clients. He is responsible for having available the following:

(1) adequate first aid supplies;

(2) sufficient food to provide for emergencies that might render the party immobile;

(3) shelter which is normally considered satisfactory and comfortable under field conditions;

(4) transportation or communications or arrangements to obtain them without hardship or unreasonable delay. (Eff. 6/28/74, Reg. 50)  
Authority: AS 08.54.050

**12 AAC 38.080. SURVIVAL GEAR.** A guide is responsible for assuring that each aircraft operated by him, and used in any phase of a hunt conducted by him, carries survival gear as required by AS 02.35.110. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.090. PRESENCE OF GUIDE REQUIRED.** A master, registered or class A assistant guide must be in the field and participating in the conduct of the guided hunt whenever assistant guides are guiding. (Eff. 6/28/74, Reg. 50; am 11/2/75, Reg. 56)

Authority: AS 08.54.050

**12 AAC 38.100. TAKING OF GAME BY GUIDES.** (a) No guide may take big game animals or marine mammals while acting as a guide, except in cases of actual emergency when a bear or other animal is attacking or when a bear or other animal is about to escape after being wounded. It is then the duty of the guide to take such actions as he considers necessary.

(b) It is unlawful for a master guide, registered guide, class A assistant guide or assistant guide guiding a hunter for walrus to take or assist in taking any walrus other than the animal taken by the client he is guiding; however, one crewman other than the guide may take one single cow walrus and its calf if this taking does not exceed the bag limit as prescribed by regulations of the Board of Game. (Eff. 6/28/74, Reg. 50; am 6/12/77, Reg. 62)

Authority: AS 08.54.050

**12 AAC 38.110. TRANSPORTING MEAT.** A guide is responsible for transporting the meat of big game animals, except bear, wolves, and wolverine, taken by his client from the site of the kill to its destination or to a common carrier

for shipping to its destination for the purpose of human consumption. If the meat is delivered to a person other than the person who took the animal, a signed and dated statement or receipt stating the kind and quantity of meat received in approximate pounds or named portions of the carcass must be obtained from the recipient and presented upon request to any officer authorized to enforce this chapter. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.120. COOPERATION WITH OFFICIALS.** Failure on the part of a guide to assist the Departments of Fish and Game and Public Safety in determining the truth of any statements reported in accordance with secs. 30 - 180 of this chapter is considered a violation of ethical conduct. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.130. REQUIREMENTS FOR AN ASSISTANT GUIDE LICENSE.** AN aled 5/12/79.

**12 AAC 38.140. REQUIREMENTS FOR A REGISTERED GUIDE LICENSE.** In addition to the requirements of AS 08.54.110, to be qualified for a registered guide license, a person must

(1) demonstrate to the board that he has spent 90 days in the field acting as an assistant guide as certified by the master or registered guides who employed him;

(2) not have violated a federal or state sport fish, game or guide statute or regulation or engaged in unethical activity, unsafe activity or activity which adversely affects the natural resources of the state for the preceding five years. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050  
AS 08.54.110(12)

**12 AAC 38.150. REQUIREMENTS FOR A MASTER GUIDE.** In addition to the requirements of AS 08.54.100, to be qualified for a master guide license a person must have acted as a registered guide for 12 consecutive years. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050  
AS 08.54.100(5)

**12 AAC 38.160. IMPROPER CERTIFICATION.** No master or registered guide may improperly certify that a person has met the qualifications for a guide license. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.170. IMPROPER REPORTING.** No guide may knowingly falsify any information required to be set out on any form required by the Alaska Department of Fish and Game or the Guide Licensing and Control Board. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

**12 AAC 38.180. GUIDING ETHICS.** Unethical activity includes, but is not limited to

(1) not fully cooperating with state and federal wildlife officials or not abiding by and advising clients and personnel of all applicable conservation and game laws and regulations or condoning their violation;

(2) misrepresenting or not clearly defining rates, accommodations and services to prospective clients prior to booking and acceptance of deposit, or otherwise misleading prospective clients through false or fictitious advertising;

(3) being unwilling or incapable of making financial restitution to a client for any breach of contract by the guide or his employees, owing to no fault of the client;

(4) not advising clients of game population to the best of the guide's ability based on past performances in hunting areas and advising him of his chances of encountering the species he desires in the time allotted;

(5) making "guarantees" as to the success of a hunt or the number of pieces of game to be collected;

(6) not maintaining and providing stock,

mechanical equipment, gear, food supplies and facilities to a quality and condition to provide services equal to or better than described in the guide's advertising, correspondence, verbal declaration or contractual agreements;

(7) not maintaining a neat, orderly and sanitary camp at all times, or not providing reasonably well-prepared, palatable and balanced camp meals for clients and personnel in keeping with the conditions of the hunt;

(8) contracting for more hunts or for more hunters at any one time than the guide or his employees can adequately facilitate rendering services for;

(9) hiring guides that are improperly licensed, or ill trained in the arts of woodsmanship, judging trophies, cooking, first aid, photography, firearms, trophy preparation and caring for clients;

(10) failing, while guiding a client, to take all precautions if an animal is wounded;

(11) failing to use every means at his disposal to bag any wounded animal while it is in danger of escaping, or if in a serious emergency, human life or well-being is endangered;

(12) filling a client's game tag or bag limit;

(13) failing, barring unforeseen conditions, to properly prepare, according to generally accepted procedures, all antlers, horn, hides and capes to be delivered to the taxidermist or to the client at the conclusion of a hunt in a satisfactory and unspoiled condition;

(14) failing to endeavor to salvage all meats of trophies taken by his client, in accordance with existing state law;

(15) promoting hunting or the taking of trophies by means other than fair chase: specifically, the pursuit of a trophy in an illegal or unsportsmanlike manner, by herding, driving or chasing of animals with the use of any mechanically powered equipment;

(16) failing to practice sound wildlife conservation or failing to create an awareness of conservation needs and practices during his associations with the public. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.040(6)  
AS 08.54.050

12 AAC 38.190. DEFINITIONS. Unless otherwise indicated, in this chapter

(1) "competence" means a professional standard of conduct which satisfactorily implements, under field conditions, the knowledge and qualifications of a guide;

(2) "transport" means shipping, carrying, importing, exporting, or receiving or delivering for shipment, carriage or export;

(3) "board" means the Alaska Guide Licensing and Control Board. (Eff. 6/28/74, Reg. 50)

Authority: AS 08.54.050

Original sponsor: Bradley

Offered: 2/16/79  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 101

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the disciplining of a licensed  
7 guide."

8

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

9

\* Section 1. AS 08.54.200(c)(3) is repealed.

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# STATE OF ALASKA

A PERFORMANCE REVIEW  
OF THE  
GUIDE LICENSING AND CONTROL BOARD

July 17, 1979



DIVISION OF LEGISLATIVE AUDIT  
Juneau, Alaska

A PERFORMANCE REVIEW  
OF THE  
GUIDE LICENSING AND CONTROL BOARD

July 17, 1979

Commissioner of the Department  
of Commerce and Economic  
Development

Charles R. Webber

Commissioner of the Department  
of Public Safety

William R. Nix

Commissioner of the Department  
of Revenue

Thomas K. Williams

Members of the  
Guide Licensing and Control Board

Chairman

Marcus F. Jensen

Member

Clark Ferte

Member

Charles Keim

Member

Glen Glenzer

Member

Hubert C. Weise

Member

Norman G. Sutliff

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**THE LEGISLATURE**

**BUDGET AND AUDIT COMMITTEE**

LEGISLATIVE DIVISION  
FOURTH FLOOR, STATE CAPITOL

JUNEAU, ALASKA 99801

July 17, 1979

Members of the  
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 47 of the  
Alaska Statutes, the attached report is submitted for your  
review.

A PERFORMANCE REVIEW  
OF THE  
GUIDE LICENSING AND CONTROL BOARD

July 17, 1979



Gerald E. Walker, Jr.  
Legislative Services  
Division

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## PURPOSE AND SCOPE OF THE REVIEW

### Purpose

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), an audit of the Guide Licensing and Control Board was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Guide Licensing and Control Board should be reestablished. The law currently specifies that this Board will terminate on June 30, 1980 but will continue until June 30, 1981 for the purpose of concluding its affairs.

### Scope

The major areas reviewed were the Board's operations and its licensing, administration, complaint, examination and affirmative action functions. Our review consisted of analyzing and evaluating the following:

- (1) Applicable statutes and Board regulations;
- (2) discussion with the Board and questionnaires sent to Board members;
- (3) tests of records and documents of the Board, the Division of Occupational Licensing (OL), Department of Commerce and Economic Development and the Division of Fish and Wildlife Protection - Investigation Section, Department of Public Safety;
- (4) interviews with OL employees, Fish and Wildlife Protection employees, Division of Game employees, Department of Revenue employees, employees in the Office of the Governor and employees in the Attorney General's Office;
- (5) complaints filed with the Division of Fish and Wildlife Protection, the Ombudsman's Office, the Attorney General's Office, the Equal Employment Opportunity Office and the Human Rights Commission;
- (6) questionnaires sent to 180 State licensed Registered and Master Guides.

Scope Constraint

This review was hampered by the Board not having established and reported financial and program plans as required by AS 37.07.050 nor has it developed and reported performance information required by AS 37.07.090.

## ORGANIZATION AND FUNCTION

The Guide Licensing and Control Board was established by the 1973 Session Laws of Alaska and succeeds the Board of Fish and Game, Department of Fish and Game, which previously regulated the guiding industry. The seven member Board is appointed by the Governor with confirmation by the Legislature and is restricted to having no more than three members as licensed guides. Board members serve staggered terms of three years or until their successors are appointed.

The Board is organized under the Department of Commerce and Economic Development, Division of Occupational Licensing. Two budgeted positions, a Guide Investigator and Administrative Assistant, in the Department of Public Safety, Division of Fish and Wildlife Protection, have been provided to assist in the licensure and investigations of guides.

The function of the Board is primarily regulatory, mandated by AS 08.54.040. Accordingly, the Board has the capacity to administer examinations; determine qualifications of guides; establish performance standards and regulate activities; maintain guide registers; prohibit harmful guiding activities; conduct hearings regarding licensure; and establish quotas of guides for specified geographical areas (exclusive guiding areas). The Board through the assignment of exclusive guiding areas limits hunting pressure by guides within a specific geographical area.

In addition, the Board licenses "transporters", a licensed "transporter" is a person who transports hunters for hire.

## REPORT CONCLUSION

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these issues, the legislative oversight committees should consider the findings and alternatives presented in this report in reaching their decision.

### Report Conclusion

In our opinion, the Guide Licensing and Control Board should be continued. For the following reasons, we believe the regulation and licensing of guides is needed to protect the public's health, safety and welfare:

- A. This profession involves contracting for hunting game that could result in severe physical harm if practiced by incompetent persons. Potential harmful results include injury or death to the hunter due to neglect or carelessness on the part of the guide.
- B. Other users of game resources, such as the general public and subsistence hunter, can be directly or indirectly affected by guiding activities. For example, overhunting by guides in an area not only depletes the game resources available to the general public but also adversely affects the subsistence hunters in that area.
- C. In order to protect the public without unduly restricting individual rights, AS 16.05.407(a) exempts Alaskan residents from requiring the services of a guide.

While the reasons above indicate that the Board should continue to license and regulate guides, certain changes need to be implemented in order for the Board to more effectively serve the public.

The Board should seek legislation to have the guide licensing function transferred to the Department of Public Safety. Currently, staff support for the Board is being provided by two departments - the Department of Public Safety and the Department of Commerce and Economic Development. Personnel in both Departments believe that the licensing function as well as enforcement would be enhanced by consolidation of the two functions in one department (see Recommendation No. 1).

The Board should seek legislation to have the transporter laws (Alaska Statutes 08.54.142, 144, 146 and 08.54.170(c)) repealed, as they are confusing and of little value (see Recommendation No. 2).

The Board should continue its efforts to make the statutes and regulations more relevant and workable (see Recommendation No. 3).

The Department of Revenue should collect fees from guides as required by statute (see Recommendation No. 4).

The Board should establish formal goals, objectives and quantifiable measures (see Recommendation No. 5).

## FINDINGS AND RECOMMENDATIONS

Findings and Recommendations No. 1 through No. 3 are addressed to the Guide Licensing and Control Board, No. 4 is addressed to the Department of Revenue, No. 5 is addressed to the Division of Occupational Licensing (OL) and should be read in conjunction with "A Performance Review of the Division of Occupational Licensing, Department of Commerce and Economic Development, October 30, 1978".

### Recommendation No. 1

The Guide Licensing and Control Board should seek legislation to have the guide licensing function transferred to the Department of Public Safety.

Staff support for the Guide Licensing and Control Board is currently being provided by two departments - the Department of Commerce and Economic Development (DCED), Division of Occupational Licensing (OL) and the Department of Public Safety (DPS), Division of Fish and Wildlife Protection (F&WP).

Applications for guide licenses are required by Alaska Statute 08.01.060 to be sent to DCED. A licensing examiner in the Division of Occupational Licensing (OL) in Juneau receives the application and fees and, upon authorization from the Board, issues the license. The licensing examiner also provides other administrative and clerical support to the Board. In addition, the licensing examiner maintains files on each individual licensee, and copies of the material in the files are sent to the Division of Fish and Wildlife Protection in Anchorage.

The Division of Fish and Wildlife Protection (F&WP), Investigation Section in Anchorage has two budgeted positions, a Guide Investigator and an Administrative Assistant, assigned to provide assistance in the licensure and investigation of guides. F&WP is also responsible for the enforcement of guide related statutes and regulations. In addition, F&WP maintains current and complete history files on all licensed guides as well as maintaining files on all the exclusive/joint use guiding areas.

Personnel in both OL and F&WP have stated that the licensing and investigative services provided to the Guide Licensing and Control Board should be consolidated within one agency. OL personnel have stated that public convenience, and staff availability would be enhanced by the consolidated effort. F&WP personnel believe that the licensing function as well

as enforcement would be enhanced by consolidation of the two functions. A reduction in operating costs should result to OL, based on the reduced work load of the licensing examiner, who estimates that she spends approximately 2/3 of her time on Guide Board related matters.

Recommendation No. 2

The Guide Licensing and Control Board should seek legislation to have the "transporter laws" repealed.

The purpose of the "transporter laws" (Alaska Statutes 08.54.142, .144, .146 and 08.54.170(c)) is to protect the safety of the citizens of the State and better manage and protect its resources by licensing persons who transport hunters for hire so that reasonable standards and guidelines would be met and activities affecting the State's game resources would be more accurately monitored and assessed.

In our opinion, the "transporter laws" are not needed to protect the safety of the public or manage the game resources.

Personnel in the Department of Public of Safety, Division of Fish and Wildlife Protection, consider the "transporter laws" confusing and difficult to enforce. In addition, we found the information and reports that transporters are required to file are not being used and are not needed to manage the game resources of the State. Furthermore, air transporters' flying safety qualifications and aircraft safety are regulated by the Federal Aviation Administration.

Recommendation No. 3

The Board should continue its efforts to make the statutes more clear, relevant and workable.

Over the past several years the Board has been adopting regulations to make the statutes more clear, relevant and workable. However, we noted several statutes which need further consideration. For example:

- a. AS 08.54.142.144, .146 and 08.54.170(c) as discussed in Recommendation No. 2, the Board should seek legislation to have the "transporter laws" repealed.

- B. AS 08.54.190(a) requires an annual renewal of guide licenses. This conflicts with AS 08.01.100(a) which requires biennial renewal of occupational licenses. It also creates additional administrative effort for both the Division of Occupational Licensing and the licensee, with no demonstrable benefit to the public.
- C. AS 08.54.110(6) pertaining to moral turpitude is considered to be vague and should be repealed as the regulation (12 AAC 38.180) defining unethical activity provides sufficient public protection in this area.
- D. AS 08. 54.200(c)(3) is considered to be unduly restrictive because it requires the Board to revoke a guide's license upon two convictions of federal or State sport fish, game or guide violations regardless of how minor the violations may have been or how long ago they may have occurred.
- E. AS 08.54.130(2) requiring a Class-A assistant guide to be under the supervision of a registered or master guide is considered vague. The term "supervision" should be clarified to indicate exactly what constitutes supervision during the conduct of a hunt.

Recommendation No. 4

The Department of Revenue should collect fees from guides as required by statute.

Alaska Statute 16.05.340(e) effective January 1, 1977 requires licensed master and registered guides to pay a fee in the following amounts for each caribou, sheep, moose, brown or polar bear taken on a guided hunt over a specified number:

- 1) over 5 up to a total of 10 per season - \$20;
- 2) over 10 up to a total of 25 per season - \$100;
- 3) over 25 per season - \$500.

Executive Order No. 17 requires the Department of Revenue to collect and account for all revenues incidental to the regulation and management of Alaska's fish and game resources. The Department has not developed forms and procedures necessary to collect and account for revenue under AS 16.05.340(e).

Recommendation No. 5

The Board should establish formal goals, objectives and quantifiable measures which should be included in the Division of Occupational Licensing's (OL's) budget document.

Objectives describe what an agency or Board is seeking to accomplish during a specific year. Well formulated objectives are capable of measurement and should include numerical targets so that actual accomplishments can be compared with stated targets. Without goals and objectives, the Board's performance cannot be adequately evaluated and analyzed.

OL establishes its own budget goals and objectives. The budget documents do not include any goals or measures for individual boards. Without the Board's goals and measures being identified or measured, neither the Governor's Office nor the Legislature can evaluate the Board's performance.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analysis of Board activities relate to the public need factors defined in the "sunset" law. This analysis is not intended to be all inclusive, but addresses those areas we were able to cover within the scope of our review.

- I. The extent to which the board, commission or program has operated in the public interest.
  1. The Board has adopted regulations defining unethical conduct which clarify and strengthen the professional's responsibility to the public.
  
- II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.
  1. The Division of Fish and Wildlife Protection, Department of Public Safety, has handled investigations of complaints in a timely and effective manner.
  2. The Board is required to license and regulate transporters under AS 08.54.142, .44, .146 and AS 08.54.170(c). Board members, personnel in the Departments of Public Safety and Fish and Game consider these statutes to be confusing and of little value (see Recommendation No. 2).
  
- III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

1. Although the statutes and regulations governing Board activities should be subjected to further review, the Board has adopted revisions to its regulations that significantly improve their clarity and applicability (see Recommendation No. 3)

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

1. The public is invited to attend Board meetings and to give their input about the workings of the Board. Notices of meetings are advertised in each of three newspapers throughout the State. In addition, guides are notified by registered mail of meetings that might affect them.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

1. As stated under criteria IV, the public is invited, by published notices in newspapers, to attend Board meetings to give their input about Board regulations or submit written testimony.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

1. Since 1977, five complaints have been filed with the Ombudsman's Office concerning guides and/or the Board. All five cases were relatively minor and were all resolved satisfactorily.
2. During the period between April 1977 and April 1979, the Investigative Support Unit of the Division of Fish and Wildlife Protection, Department of Public Safety conducted 61

investigations involving all classifications of guides. During this same period, 35 accusations were filed for Disciplinary Hearings before the Board. Many of the Disciplinary Hearings resulted in the Board taking action such as suspending or revoking a guide's license.

VII. The extent to which a board or commission which regulated entry into an occupation or profession has presented qualified applicants to serve the public.

1. As of June, 19, 1979 approximately 39 Master Guides, 289 Registered Guides, 116 Class-A Assistant Guides, 468 Assistant Guides and 48 Transporters are licensed in Alaska.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

1. The applications pertaining to licensing of guides and transporters contain requests for information such as birthdate, birthplace, marital status, sex and whether the applicant is a citizen of the United States. These requests may be violations of the Equal Employment Opportunity requirements. However, some of this information may be necessary to confirm an applicant's qualifications. We recommend that the requirements for licensure be analyzed to determine if a valid need for the information exists (see the OL Performance Audit Report).
2. Although the Board does not have a formal affirmative action plan, it has been making an effort to increase the participation of Native Alaskans in the guiding industry. For example, in August 1979, two Board members, a Fish and Game Biologist and the Chairman of the Interim Subsistence Committee in the State House of Representatives went to several native villages along the Arctic coast for the purpose of explaining the guiding business and how the natives along the Arctic coast can become licensed to guide for marine mammals such as walrus. In addition, a

Board meeting has been scheduled to be held in Nome at the end of November 1979, in order to orally examine native applicants for guide licenses. We recommend that the Board continue its efforts to include more Native Alaskans in the guiding industry.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

1. Staff support for the Guide Licensing and Control Board is currently being provided by two departments. In our opinion, consolidation of the licensing and investigation functions would result in a more efficient, economical and effective performance of both functions (see Recommendation No. 1).
2. Please refer also to the previous section of this report, Findings and Recommendations.

APPENDIXES

APPENDIX A

GUIDE LICENSING AND CONTROL BOARD  
REVENUES COMPARED WITH EXPENDITURES  
Fiscal Year 1978  
(UNAUDITED)

Average Revenue (Schedule 1, Note 1 and Note 2)		\$ 40,157
Expenditures-OL (Note 3)	\$38,843	
Expenditures-F&WP (Note 3)	<u>77,242</u>	<u>116,086</u>
Excess of Expenditures over Revenues		<u><u>\$(75,929)</u></u>

Schedule 1  
Types of Revenues

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Master Guide License	\$75	Annually
Registered Guide License	\$75	Annually
Class-A Assistant Guide License	\$15	Annually
Assistant Guide License	\$10	Annually
Transporter License	\$10	Annually
Application For A Guide Examination	\$25	With Application
Late Renewal Penalty	\$10	With Late Payment

Note 1

Although guide and transporter licenses are renewed annually, we calculated and reported an average of the revenues collected in Fiscal Years 1977 and 1978 in order to present a fair representation of collected revenues.

Note 2

The average revenue amount reported does not include revenue obtained from the sale of game tags or hunting licenses. It only includes revenue obtained from fees required to obtain and/or renew guide licenses.

Note 3

Expenditures include those made by Board members, such as travel and per diem, and an allocated percentage (estimated) of total administrative expenses of OL. Also included were expenditures which were charged to the Board by the Department of Public Safety, Division of Fish and Wildlife Protection - Investigation Section. The amount reported does not include expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Board, OL and the Division of Fish and Wildlife Protection.

APPENDIX B

ADMINISTRATIVE STATISTICS

<u>Currently Licensed</u>	<u>As of June 19, 1979</u>
Master Guides	39
Registered Guides	289
Class-A Assistant Guides	116
Assistant Guides	468
Transporters	48

Board Meetings Between  
October 14, 1977 and June 20, 1979

December 03 - 09, 1977  
February 18 - 21, 1978  
March 27 - 30, 1978  
November 25 - December 01, 1979  
January 29 - February 01, 1979  
April 03 - 06, 1979

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Note: The examinations (written and oral) for a Registered Guide license are given once a year in late November or during December.

APPENDIX C

QUESTIONNAIRE SENT TO BOARD MEMBERS

1. What do you believe to be the goals and objectives of the Guide Licensing and Control Board?

Number of Board  
Members' Responses  
(See Notes 1, 2 and 3)

Description

- |    |  |   |
|----|--|---|
| A. | To establish a viable guiding industry.  | 2 |
| B. | To assure public protection by allowing adequate entrance of qualified guides into the guiding business. | 1 |
| C. | To establish a conservation program for game management through the use of exclusive guiding areas.      | 1 |
| D. | To set standards of conduct such as a Code of Ethics.  | 1 |

2. How does the Board measure its progress in meeting its goals and objectives? Please specify.

Number of Board  
Members' Responses

Description

- |    |   |   |
|----|---|---|
| A. | By the establishment of exclusive guiding areas by game management units.   | 3 |
| B. | Proposed regulations are scheduled for hearings.  | 1 |
| C. | Guide exams are scheduled and given.  | 2 |
| D. | Hearings on accusations are scheduled and handled.  | 1 |
| E. | Monitor political issues that affect the guides and/or the guiding industry.  | 1 |
| F. | Progress is measured by the support of the majority of ethical guides/businessmen even while they remain as the Board's constant critic/mentor. | 1 |

3. What evidence exists demonstrating that the absence of guide regulations and/or the Board would be detrimental to the public's best interest? Please explain.

Number of Board Members' Responses

Description

- A. The Guide Board has the power to act against the license of an errant guide. This power appears to be the greatest deterrent the guides willingly recognize. 2
- B. Because the Board has spread out the guiding pressure, the public now has a better chance at a good hunting trip. Guides themselves have endorsed the program of exclusive guide areas as a way to conserve game. "
- C. Prior to the Board's existence, unqualified people set themselves up as "guides" to an unknowing public-- particularly those outside Alaska. This resulted in hunters leaving the State bitterly disappointed. 1
- D. Through the use of Regulations - Code of Ethics, qualifications and tests, exclusive guiding areas, etc., society is starting to recognize and respect the guide as a professional. 1

4. A. Is the staff from the Department of Commerce and Economic Development and/or the Department of Public Safety adequate to perform and enforce all laws and regulations relating to the Guide Licensing and Control Board?

Number of Board Members' Responses

Description

- A. Yes. A workable staff has been established. Complaints (founded and unfounded) have dropped over 80% since the Board has been established according to a Public Safety spokesman. 1
- B. Yes. All staff personnel are doing a good job. There is some delay and confusion in handling inquiries and license

4. (Cont'd.)

Number of Board  
Members' Responses

- research due to the support staff being split into two departments. 1
- C. More support for the enforcement end of the guiding industry is needed. 1
4. B. What staff support services are provided adequately/inadequately?

Description

- A. Guides, Guide Board files and exclusive guide area maps are handled very well. Support from the AG's Office is good at this time. 1
- B. Staff support now is the best it has ever been. 1
- C. The Board needs more travel and per diem so it can meet in other places in the State besides Anchorage, Fairbanks, and very seldom Juneau. 1
4. C. Are investigations performed adequately/inadequately?

Description

- A. Yes. Present investigations are very thorough. 1
- B. Yes. The biggest improvement in the last year is in the timeliness of investigations and hearings. This is mainly due to the fact the Attorney General's Office has assigned a special attorney to handle our cases. 2

5. Are the Board functions and activities and/or the guiding industry hampered by any statutes or regulations which you believe to be obsolete, vague or unduly restrictive? Please list and explain.

Number of Board  
Members' Responses

Description

A. Yes. Some statutes and regulations are obsolete, vague and unduly restrictive. The Board and an advisory committee appointed by the Board are reviewing this. Statutes and regulations are a part of each Board meeting, and only with input from the public and the AG's Office can these be evaluated and changed when needed.

1

B. The Guide Board set up a joint committee with the professional guides to examine problems concerning regulations or statutes. The joint committee has made recommendations to the Board concerning changes needed in the regulations and statutes.

2

6. Has the Board recommended any statutory changes which are generally in the public's best interest? Please list and explain.

Number of Board  
Members' Responses

Description

A. Believe the Board has recommended changes in the statutes, but without researching, can not list.

1

B. The Board just passed a regulation establishing an Arctic Coast guide unit, which would be called Guide Unit 27. In future programs we will be assigning guides for the taking of marine mammals.

1

C. 1) Establishment of Exclusive Guiding areas;

1

2) placing more emphasis upon the guides' recommendations for assistant guides;

1

7. What changes could be made to the Board which would improve its service to the public and guiding industry? Please discuss.

Number of Board Members' Responses

Description

A. Believe the Board has served the public interests and the guiding industry very well.

1

B. Have enough funds to pay for a public address system at our meetings.

1

C. My experience on the Board has finally convinced me that the mere increase in numbers would make it more efficient, more fair. I believe that with a couple more meetings each year, the Board would have more time before each meeting for discussion.

1

8. In your opinion, what effect have exclusive and joint use guiding areas had on the guiding profession and the game resources of the State? Are exclusive and joint use guiding areas beneficial to the Alaskan public? Please discuss.

Number of Board Members' Responses

Description

A. Exclusive and Joint Use Guiding Areas have given guides an incentive to better manage the game resources in their areas.

4

B. They have provided the public the following benefits; 1) less guide pressure in areas of high game count; 2) better guide service; 3) more game available to the hunter; 4) overall better public acceptance of hunting as a sport, not a slaughter as some special interest groups would like the public to believe.

7

C. With the help of Exclusive Guiding Areas, the Board has largely brought illegal guiding activities under control.

1

9. Any other comments?

Number of Board  
Members' Responses

Description

- A. Believe the news media has to be used to better inform the public of guiding and/or hunting. 1
- B. Fees from guides and guiding activity should reimburse the State for the costs of the Guide Board and related activity of other Departments. The Board should be kept active for a minimum of another four years so that the effect of its performance can be adequately measured. 1
- C. The Board has passed a regulation setting forth an offshore guide area in the Arctic. This area could offer guided hunts for walrus, seal, whales, and polar bear. There are many non-residents who are interested in these types of hunts. If the Native hunters become interested in the guiding profession it could add a great deal to their economy. Our Board is going to try to make a personal survey with the Arctic villages to see if they are interested in a guide program.
- I feel that the Guide Board is working fairly with the Attorney General's Office, Public Safety, Commerce Department and the professional guides. Our program is pretty well understood by the guides and we have made every effort to be as fair as possible.
- D-2 Land settlement might cause the Board to re-evaluate what could be done for those guides put out of business. We would ask for public input and information from the Dept. of Game as to what possibilities are open to us. 1
- D. The exclusive guiding areas (EGA) are starting to work for the good of all. The removal of the EGA system now would be chaotic. The greatest losses would be to the game populations, the Alaska general public and the industry itself. 1

Note 1

Number of Board Members	<u>7</u>
Number of Board Members' Responses	<u>4</u>

Note 2

Some Board Members responded to each question with several answers. Therefore, total responses to a question may exceed the number of Board members.

Note 3

Comments were all reviewed and considered in the performance of our audit, and are briefly summarized in this appendix.

APPENDIX D

QUESTIONNAIRE SENT TO LICENSED MASTER GUIDES  
AND LICENSED REGISTERED GUIDES

The following questionnaire was sent to licensed master and registered guides (see Note 1). For each question on the questionnaire we have noted the percentage of yes and no responses. We have also shown the most typical written comments for each question as compiled from the questionnaire (see Note 2).

		<u>% of Responses</u>		
		<i>(See Note 1)</i>		
		No		
		<u>Yes</u>	<u>No</u>	<u>Opinion</u>
1.	<u>Do you believe the Guide Licensing and Control Board has operated in the public's and guiding industry's best interest?</u>			
	<i>Comments:</i>	79%	26%	2%
	<i>Yes. Competition for hunting areas has been reduced tremendously since assigned areas were implemented by the Board. Action by the Board against unethical operations has had a good effect on the industry.</i>			
2.	<u>Would the absence of the Board be detrimental to the public's best interest?</u>			
	<i>Comments:</i>	68%	29%	3%
	<i>Yes. The Board is necessary if we are to regulate the guiding profession.</i>			
3.	<u>Are there any statutes or regulations which you believe to be obsolete, vague or unduly restrictive?</u>			
	<i>Comments:</i>	51%	35%	14%
	<i>Yes. The three assistant guide limit is unduly restrictive. The transporter law should be deleted, as all it does is legalize a bunch of \$10 guides who are not restricted to area, ethics.</i>			

		<u>% of Responses</u>		
		<u>Yes</u>	<u>No</u>	<u>Opinion</u>
4.	<u>Are you aware of any discriminatory practices by the Board with regard to an individual's race, religion, color, national origin, age or sex?</u>			
	<i>Comments:</i>	10%	88%	2%
	<i>Yes. No comments were received for the 10% yes responses.</i>			
	<i>No. In fact they go overboard to be fair.</i>			
5.	<u>Do you believe that Alaska's licensing requirements (for assistant guide, Class-A assistant guide, registered guide and master guide) are adequate and effective in ensuring that the public is protected?</u>			
	<i>Comments:</i>	72%	24%	4%
	<i>Yes. The requirements are adequate.</i>			
	<i>No. Tests should be much more rigid and cover broader areas.</i>			
6.	<u>Are there any additional statutes, regulations or licensing requirements needed to ensure the public is adequately protected?</u>			
	<i>Comments:</i>	30%	59%	11%
	<i>Yes. There should be a legal limit placed on the number of guides because there is a limited amount of game.</i>			
	<i>No. We have too many statutes and regulations on the books now.</i>			
7.	<u>Do you have any complaints concerning the service provided by the staff support of the:</u>			
	1) <u>Department of Commerce and Economic Development, Division of Occupational Licensing?</u>	13%	83%	13%
	2) <u>Department of Public Safety, Division of Fish and Wildlife Protection?</u>	30%	59%	11%

<u>% of Responses</u>		
	<u>No</u>	
<u>Yes</u>	<u>No</u>	<u>Opinion</u>

7. (Cont'd.)

Comments:

Yes. The Department of Commerce and Economic Development is too slow in getting licenses issued.

No. Staff support has been good.

Yes. Protection officers seem to tend to be more interested in making cases than working to prevent offenses. By the same token, they spend time checking sport fishermen for licenses rather than work on more important offenses.

Favoritism. Harassment of some well meaning and hardworking guides.

No. They have been doing a good job.

8. Do you believe that the examination given by the Board for a registered guide license is a fair and reasonable test of a guide's professional knowledge and ability?

79% 14% 7%

Comments:

Yes. Between the written and oral exams an applicant gets adequate testing.

No. Some emphasis should be placed on contracts, civil rights and legal rights. A guide should also be required to attend a First Aid course or an adequate substitute.

9. Do you feel that the issuance of exclusive and joint use guiding area permits is in the best interests of the public and the guiding industry?

63% 31% 6%

Comments:

Yes. It is the only way to preserve our industry and maintain a healthy game population.

No. Areas are unfairly proportioned with little or no standardization. The big money operators were given huge tracts,



Note 2

Comments were all reviewed and considered in the performance of our audit, and are briefly summarized in this appendix.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

ALC-11

SEP 28 1979  
LEGISLATIVE  
AUDIT

September 28, 1979

Mr. Gerald Wilkerson  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

Dear Mr. Wilkerson:

We have reviewed the enclosed Department of Commerce and Economic Development response to your preliminary report entitled:

"A Performance Review of the Guide Licensing  
and Control Board -July 17, 1979"

Additionally, we have reviewed the interim response data submitted by the Departments of Revenue and Public Safety and are forwarding them to you.

You will note that the Department of Revenue is consulting with the Department of Law concerning Recommendation No. 4 and that they plan to make an official response within ten days. Also, the Department of Public Safety has indicated that there have been no changes of substance since their response to your interim letter. Accordingly, they and we feel that the original response is adequate and self-explanatory.

Sincerely,

Richard A. Smith  
State Internal Auditor

RAS/PJA/mjc  
Enclosures

## STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D - JUNEAU 99811

September 27, 1979

RECEIVED

SEP 28 1979

LEGISLATIVE  
AUDIT

Mr. Gerald Wilkerson, C.P.A.  
Division of Legislative Audit  
Pouch W  
Juneau, Alaska 99811

Dear Mr. Wilkerson:

The following comments are in response to the Performance Review of the Guide Licensing and Control Board, as submitted by the Division of Legislative Audit.

Recommendation No. 1: Agree. We believe that consolidation of guide licensing and control into one agency would enhance efficiency of operations, avoid duplication, and be less confusing. Transfer of licensing to the Department of Public Safety would not, however, have a significant effect in reducing Division of Occupational Licensing operating costs. We still would maintain equipment, overhead expenses, and the licensing examiner who is also currently responsible for two other boards. The reduction in workload would result in reallocation of duties from other high volume areas.

Recommendation No. 2: Agree. The division and the board are in agreement with this recommendation and will be preparing appropriate statutory amendments for consideration during the 1980 legislative session.

Recommendation No. 3: Agree. The board works on a continual basis to make its statutes and regulations comprehensible and relevant. The division will assist the board in these efforts.

Recommendation No. 4: N/A

Recommendation No. 5: Agree. All boards and commissions were requested to submit this information for inclusion in the FY '81 budget document. The Guide Licensing and Control Board has complied with that request.

Thank you for the opportunity to respond to this report and for the time and effort expended by you and your staff.

Sincerely,

*[Handwritten Signature]*  
Bertram L. Wagon  
Acting Commissioner

BLW/kb

Gerald Wilkerson, Director  
Legislative Auditor  
Division of Legislative Audit

August 10, 1979

William R. Nix, Commissioner  
Department of Public Safety

Interim Letter No. 1  
Guide Licensing and  
Control Board

Having reviewed the Interim Letter No. 1 concerning the sunset audit conducted by your agency of the Guide Licensing and Control Board, I offer the following comments:

Recommendation No. 1

The Guide Licensing and Control Board should seek legislation to have the guide licensing function transferred to the Department of Public Safety.

This department endorses this recommendation. The duplicated efforts currently practiced by two departments will be eliminated and all guide licensing functions placed under one authority. This will greatly simplify the citizens involvement with guide licensing functions. Additionally, it will eliminate the need to correct numerous errors that currently occur due to a split in the duties and responsibilities.

Recommendation No. 2

The Guide Licensing and Control Board should seek legislation to have the "transporter laws" repealed.

Again the department endorses this recommendation. As written the transporter laws do not serve a useful purpose in enforcement, game management, or protection of the resources. Some discussion between the Department of Fish and Game and the Department of Public Safety on this subject last year indicated that they share our opinion. To a large degree, our functions with the transporter laws overlaps that of the Federal Aviation Administration.

Recommendation No. 3

The Board should continue its efforts to make the statutes more clear, relevant and workable.

In general, many of the statutes and regulations are confusing to the public and our protection officers. It does little good to have statutes on the book and regulations

promulgated if the public doesn't understand them. In response to the examples you cited I offer the following:

- A. This was covered in our response to recommendation number 2. This law is not only unworkable, but does not serve the purpose for which it was intended.
- B. This may not be as confusing as it sounds because all fish and game licenses are renewed annually. If the guide licensing functions are placed under one authority (recommendation #1) it may eliminate the problems.
- C. We admit that the term moral turpitude is vague; yet, ethical conduct or ethical activity, as recommended by the auditor, only applies to persons acting in the guide profession after a license is secured. Section 08.54.110(6) speaks to the qualifications for a registered guide license and the wording "has not been convicted of a crime involving moral turpitude" gives us a court established precedent for requesting applicants fingerprints and for conducting background investigations. If "moral turpitude" is repealed, some substitute qualification should be found that continues to give us the ability to eliminate applicants with serious criminal backgrounds.
- D. The department agrees with the auditor that this section is very restrictive. The same intent could probably be accomplished by changing the word shall to may. Other statutes such as AS 08.54.200(b) and AS 08.54.200(c) give the board the authority to revoke licenses for other types of violations.
- E. We would like to caution trying to define "supervision" as it could end up in the same category as "participate in a hunt" (AS 38.090) or "cooperate with officials" (AS 38.120). For purposes of enforcement, we feel that the current wording is sufficient.

#### Recommendation No. 4

The Board should establish formal goals, objectives and quantifiable measures which should be included in the in the Division of Occupational Licensings' budget document.

I feel that the board does have definite objectives and would have no reluctance to stating those objectives.

If you have additional questions or need a comment clarified, please feel free to contact me.

SEP 28 1979

LEGISLATIVE  
SERIES

TO [ Richard Smith, Director  
Internal Audit Division  
Department of Administration

DATE: September 28, 1979

FILE NO

TELEPHONE NO

FROM Thomas K. Williams, Commissioner  
Department of Revenue

*JKD  
for*

SUBJECT: Legislative Audit's Performance  
Review of the Guide Licensing  
& Control Board

RECOMMENDATION NO. 4 - THE DEPARTMENT OF REVENUE SHOULD COLLECT FEES FROM GUIDES, AS REQUIRED BY STATUTE.

This law requires the participation of several State agencies. In 1976, the Department of Revenue met with the Departments of Law, Fish and Game, Commerce, Public Protection, and the Guide Licensing and Control Board.

The determination at that time was that the Guide Board, working with the Department of Commerce, was the only State agency that could effectively collect fees. The Guide Board and the Department of Law were to resolve the various problems and formulate the policy and procedures.

In the first week of October, the Department of Law is to release a memorandum which will set the guidelines and recommend appropriate action by each participating agency.

The Department of Revenue would like to defer an official response to Recommendation No. 4 until the Department of Law's memorandum has been reviewed. We request a ten-day postponement.

MEMO RECEIVED

from the desk of

9/22/79

SEP 22 1979

LEGISLATIVE

Mr. Gerald L. Wilkerson, CPA  
Legislative Auditor

Dear Mr. Wilkerson:

Thanks for the copy of the preliminary audit of the Guide Board. I've caught up with me in Port Angeles a couple of days ago. I notice that the chairman of the Board is requested to provide you with a response within 20 days. The last communication I received from Marcus Jensen via a copy of a letter to someone else indicated that he would not be back in Alaska until the latter part of October. He then will be in Juneau for a time until he goes to deer camp. My reaction to the audit is that it is both thorough and perceptive.

Sincerely,

Member  
GL&C

cc

*Charles J. Kern*