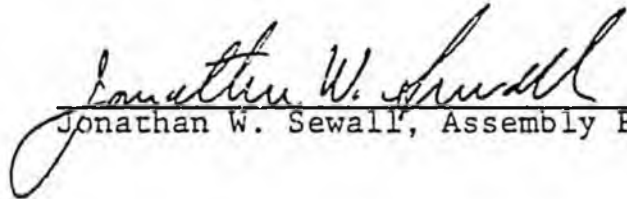


ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5014 HRES SB 191 (FILE 1)

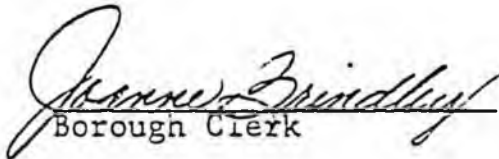
58

Section 3. That copies of this resolution shall be sent to Governor Steve Cowper; Commissioner of Fish & Game; Senator John B. Coghill, Chairman of the Senate Resources Committee; Senators John Binkley, Paul Fischer, Jalmar Kerttula and Mike Szymanski; and Representatives Adelheid Herrmann and Sam Cotten, Co-Chairmen of the House Resources Committee and Representatives Bette Cato, Mike Navarre, C.E. Swackhammer, Kay Wallis and Jim Zawacki.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON
THIS 19th DAY OF April, 1988.


Jonathan W. Sewall, Assembly President

ATTEST.


Borough Clerk

RECEIVED APR 27 1988

TO: MR. ADEL HEID HERRMANN
POUCH B
JUNEAU AK. 99811

FROM: MR. JOHN LONGSTREET
UNITED STATES COAST GUARD AIR STATION
TRAVERSE CITY, MI. 49684

DEAR SIR

I AM AN ALASKA RESIDENT STATIONED IN MICHIGAN. I HAVE BEEN HEARING SOME VERY DISTURBING THINGS CONCERNING OUTFITTERS IN ALASKA. I UNDERSTAND THAT SENATE BILL 191, THAT IF PASSED WILL MAKE OUTFITTING ILLEGAL, PUTTING A LOT OF PEOPLE OUT OF WORK, TAKING BUSINESS AWAY FROM SPORTING GOODS STORES, OUTDOOR CLOTHING STORES, FOOD STORES, AND AIR TAXI SERVICES, TO NAME A FEW.

I AM A VERY ACTIVE HUNTER AND FROM TIME TO TIME EMPLOY THE SERVICES OF OUTFITTERS. THE REASON I USE OUTFITTERS INSTEAD OF GUIDES IS ECONOMICS. I CAN HIRE A GOOD OUTFITTER WHO WILL MAINTAIN A VERY COMFORTABLE CAMP, AND PROVIDE FOR ME EVERYTHING FROM A SLEEPING BAG, TENTS, FOOD, A CAMPCOOK, ETC. FOR AROUND \$1000.00 PER WEEK, WHERE A GUIDE CHARGES ABOUT \$6000.00 PER WEEK.

I REALIZE THAT AN OUTFITTER CAN NOT ACCOMPANY ME IN THE FIELD NOR HAVE I EVER HAD ONE THAT WANTED TO. I DO NOT WANT OR NEED A GUIDE, BUT I ENJOY COMING BACK FROM A HARD DAYS HUNT TO A COMFORTABLE CAMP, WHERE THE CAMPCOOK MEETS ME WITH A HOT CUP OF COFFEE, WITH SUPPER NOT TOO FAR BEHIND. I KNOW THAT I AM NOT ALONE IN THIS, I HAVE TALKED AND HUNTED WITH SEVERAL OTHER HUNTERS BOTH RESIDENT AND NON-RESIDENT WHO PREFER TO USE OUTFITTERS, IF FOR NO OTHER REASON THAN THAT GUIDES HAVE OVER PRICED THEMSELVES COMPLETELY BEYOND REASON.

IF YOU PASS THIS BILL, COMFORTABLE CAMPS WILL BE SOMETHING ONLY A RICH MAN CAN AFFORD. AND FEWER PEOPLE WILL COME TO HUNT IN ALASKA WHICH FROM AN TOURISM POINT OF VIEW MEANS FEWER DOLLARS SPENT IN LOCAL STORES.

ALSO I FEEL IT IS MY RIGHT TO HAVE A CHOICE BETWEEN OUTFITTERS AND GUIDES, THEY BOTH FILL IMPORTANT AREAS IN THE HUNTING COMMUNITY, IF YOU CAN AFFORD A GUIDE AND WANT ONE GREAT, BUT IF YOU ARE LIKE ME AND CANNOT AFFORD A GUIDE, AN OUTFITTER IS THE ONLY WAY TO GO.

SO PLEASE VOTE AGAINST "SENATE BILL 191" AND ANY OTHER BILL THAT WOULD STOP OUTFITTERS FROM PROVIDING A MUCH NEEDED SERVICE.

THANK YOU FOR YOUR TIME

John Longstreet
JOHN LONGSTREET

Introduced by: McGahan
Date: April 19, 1988
Vote: 12 Yes, 4 No
Action: Amnd, Adopted

KENAI PENINSULA BOROUGH

RESOLUTION 88-38

SUPPORTING THE FORMATION OF A TASK FORCE BY THE SENATE RESOURCES COMMITTEE IN REGARD TO SENATE BILL 191, AND URGING THAT EQUAL REPRESENTATION OF ALL USER GROUPS BE ASSURED.

WHEREAS, considerable controversy has arisen over the harvest of big game in Alaska by all user groups in the sports hunting public; and

WHEREAS, all user groups have recognized that there are inherent problems in this regard that must be resolved; and

WHEREAS, historical evidence shows genuine needs of all user groups; and

WHEREAS, because of the issues involved, the committee substitute for SB 191 would create a task force to try to reach an equitable solution to these issues; and

WHEREAS, the task force will determine the protections needed to preserve and maintain the hunting resources of the state; and

WHEREAS, this task force would include not only members of the guide board, but would require membership and participation by representatives of all groups using the hunting resource; and

WHEREAS, the assembly supports such an effort to reach a solution to this issue; and

WHEREAS, the elimination or unnecessary restriction of any of these user groups could create serious financial hardship on borough residents and businesses;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the assembly hereby expresses its support for the Resources Committee substitute to SB 191 that would create a task force to recommend an equitable solution to questions regarding conflicts between user groups of the sports hunting public.

Section 2. That the Assembly opposes any version of SB 191 or other legislation that would restrict or possibly eliminate any user group until after the Task Force has completed its work and made its recommendations.

Guides & Outfitters

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Performance Report on the Guide Licensing And Control Board - Nov. 1985

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
GUIDE LICENSING AND CONTROL BOARD

November 21, 1985

Audit Control Number

08-1253-86-R

Commissioner, Department of
Commerce and Economic Development

Loren H. Lounsbury

Deputy Commissioners, Department of
Commerce and Economic Development

Terry Elder
Greg Baker

Members of the
Guide Licensing and Control Board

Chairman
Member
Member
Member
Member
Member
Member

Ray McNutt
Edward J. Shavings, Sr.
Douglas Pope
Charles Weir
Poldine Carlo
Ralph G. Fenner
James Harrower

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

November 22, 1985

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the
Alaska Statutes (sunset legislation), the attached report is
submitted for your review.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
GUIDE LICENSING AND CONTROL BOARD

November 21, 1985

Audit Control Number

08-1253-86-R



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REPORT

Purpose

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Guide Licensing and Control Board for the past four fiscal years. Our examination was conducted to determine if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Guide Licensing and Control Board should be reestablished. The law now specifies that the Board will terminate June 30, 1986 and will have one year from that date to conclude its affairs.

Scope

The major areas of our examination were the licensing, examination, administration, complaint, and affirmative action functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Interviews with the license examiners.
3. Tests of files and documents of licensees.
4. Complaints filed with the Division of Occupational Licensing, Human Rights Commission, Equal Employment Opportunity Office, Attorney General's Office, and the Ombudsman Office.
5. Discussions with Board members.
6. Minutes of Board meetings and Division correspondence files.
7. Attorney General Opinions applicable to professional boards.

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ORGANIZATION AND FUNCTION

The Guide Licensing and Control Board was established by the 1973 Legislature and succeeded the Board of Fish and Game, Department of Fish and Game, which previously had 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. The Division assists the Board in the performance of their duties by providing administrative, licensure, and investigative support.

By law, a nonresident may not hunt, pursue, or take brown bear, grizzly bear, polar bear, or sheep in Alaska unless personally accompanied by a licensed master, registered, or assistant guide. Nonresidents hunting with an Alaskan relative are exempt from this requirement. The Guide Licensing and Control Board was appointed in part to protect these nonresident hunters from incompetent individuals holding themselves out to be qualified Alaskan 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.

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REPORT CONCLUSION

Policy Issues

This report 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 report but require legislative consideration. In debating these issues, the oversight committees should take into consideration the findings and recommendations presented in this report so the potential impact of policy changes can be evaluated.

Report Conclusion

In our opinion, the Guide Licensing and Control Board should be reestablished. The regulation and licensing of qualified guides is necessary to protect the public's health, safety, and welfare. The Board provides this service by establishing minimum qualification and experience requirements that provide reasonable assurance that persons licensed are both capable of safely conducting guided hunts and familiar with their prospective guiding areas. Assurance that those licensed act in a competent manner is also provided by active investigation of complaints and revocation or suspension of licenses where appropriate.

However, the following findings describe areas where weaknesses or conflicts exist. We have made recommendations which, if implemented, will improve the efficiency and effectiveness of the Board.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Guide Licensing and Control Board (GLCB) should develop a prioritized set of criteria to use in assigning both exclusive and joint-use guiding areas (EGAs).

Alaska Statute 08.54.040(a)(8) allows GLCB to:

Establish a quota of licensed operating guides who may operate within designated geographical 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 guides who reside within the designated game unit or subunit.

GLCB has implemented this provision through the establishment of both exclusive and joint-use guide areas (EGAs), which limit the number of guides who can conduct hunts in various regions of the State. The GLCB's authority to assign EGAs is supported by an April 1977 Attorney General memorandum which determined that GLCB's regulations and activities implementing exclusive guiding areas were within their statutory powers.

This limitation on the practice of guiding ostensibly provides public benefits by providing for better game management; promotion and enforcement of ethical guiding practices; enhancing the "wilderness" aspect of big game hunting experience by separating guided hunting parties; and allows for the separation of non-compatible forms of hunting. The limits are also designed to provide for a greater degree of safety to the guided hunter by allowing guides to become familiar with the terrain and seasonal weather conditions of their assigned area.

GLCB does not act consistently when considering the assignment of exclusive and joint-use guiding areas. The criteria on which any given area assignment decision is made varies from decision to decision. Additionally, GLCB often does not adequately document the basis on which they make their assignments. We found inconsistencies and contradictions in the way that GLCB applied the following criteria when awarding EGAs:

1. Game Management Information - GLCB does not consistently review game management information in their area assignment decisions. What game information they do consider usually is second hand and anecdotal, provided by applicants or current users (see Recommendation No. 2).

2. Demonstration of Experience - When applying for an EGA, applicants must demonstrate that they have had guiding experience in the applicable game unit. Guides demonstrate their experience through the submittal to GLCB of a Statement of Financial Remuneration (SFR) for each guided hunt. SFRs list the names of hunters, guides assisting in the hunt, game units hunted, and the type of game taken.

Under the Board's regulations, SFRs are the primary evidence of a guide's activity and familiarity with the game unit involved. However, we found instances where the Board awarded EGAs to guides with no SFRs in the appropriate game unit, while denying other EGA applicants because they had no SFRs on file demonstrating their experience or activity.

3. Transfers of guiding areas - GLCB has been essentially approving transfers of guiding areas with little or no consideration of any other criteria such as game management, objections of joint users, or experience of the guide receiving the transferred area (see Recommendation No. 3).

This inconsistency on the part of GLCB in its decision-making, along with the lack of proper documentation of its rationale, ultimately results in a loss of effective control over the activities and policy of the guiding industry.

During the past four years, hearing officers have repeatedly found Board decisions to be arbitrary and capricious with little or no support. In effect, the Board has abdicated much of its control over area assignments through its inconsistent application of criteria. Hearing officer decisions are beginning to effectively replace GLCB in setting quotas for guides. Essentially, GLCB has not fully met its statutory responsibility to adopt an equitable and reasonable procedure for the assignment of guide areas.

We believe GLCB's responsibility would be better met by identifying pertinent criteria to be used in area assignment decisions, assigning some priorities to those criteria, and applying them consistently.

Recommendation No. 2

GLCB should improve methods of obtaining game management information from independent sources, such as the Alaska Department of Fish and Game (ADFG).

One of the primary justifications for the whole concept of EGAs is to enhance overall management of the public's game resources. Guides are awarded exclusive or joint-use areas so that they have a long-term interest in managing the game

in their EGA. GLCB has adopted regulations [12 AAC 38.053(d) (1)] that require it to consider an area's ability "... to sustain an additional guided hunting operation, in terms of game populations, terrain, methods of hunting, and use by other guides and hunters."

As stated in Recommendation No. 1, we found that GLCB rarely considers independent information regarding game populations and management concerns when assigning EGAs. GLCB relies on information provided by applicants and guides operating in the region under consideration. Certainly, the assessment of an active registered guide is important and should be considered. However, whether coming from an applicant or current user, it must be recognized that the guide has a vested interest in how the information is presented and interpreted.

Oftentimes, information presented to the Board is conflicting, depending on the desire of the guide. New applicants for areas claim game is plentiful, and the area is underutilized. Current users, on the other hand, emphasize game scarcity and hunting pressures.

If GLCB established better, more formal communications with ADFG they would better meet their regulatory and statutory obligation to enhance the management of the State's game resources. ADFG information may be no better than that of guides; however, it is more independent and more objectively developed. ADFG is charged with management of the State's game resources, and guided, non-resident hunters take up to an estimated 40% of the game in the State. We believe GLCB should attempt to improve communications and coordination with ADFG while taking steps to include their assessment of game populations and hunting pressures when considering assignment of EGAs.

Recommendation No. 3

GLCB should take more responsibility for area assignments by repealing regulations that allow a guide to designate to whom his EGA be reassigned.

Registered and master guides may each have a maximum of three EGAs. Typically, when a guide wishes to retire or perhaps become eligible for another, different EGA, he is allowed to turn back an existing EGA to the Board and designate the recipient of this reassignment. GLCB regulations currently allow, but do not necessarily require, this practice.

We found that these designated transfers override all other area assignment criteria. Essentially, GLCB has been automatically approving transfers of EGAs regardless of game management considerations, demonstration of experience

in the area by the transferee, and over the objections of affected joint users. Whereas GLCB evaluates, albeit inconsistently, regular area assignments, our review indicated they gave transfers much less scrutiny.

We believe that this lack of scrutiny encourages the practice of guides selling their EGAs to other guides in violation of GLCB regulations. With the Board giving little review to transfers, they greatly increase the potential of EGAs being awarded based solely on economic consideration; i.e., can the designated recipient afford to buy the area from its holder? This potential abuse is contrary to GLCB's statutory responsibility of establishing quotas for guide areas in an equitable and reasonable manner. We feel that all qualified guides for the area should receive equal chance at receiving an EGA, regardless of their ability to "buy" the rights from the previous holder.

By not adequately reviewing transfers of guide areas, the GLCB is missing an opportunity to achieve one of its stated policy goals. In the Board's FY 85 annual report, they state one of their policy objectives is to not allow additional joint use in areas that already have enough guides operating.

We feel that it would be better if the EGAs were surrendered to the Board; the Board review pertinent and prioritized criteria to determine if the region would support one or more additional guide operations; then consider all applications for the area under a equitable and reasonable method of allocation. Such a method could take into consideration unique qualifications such as a son or daughter who had worked as an assistant to their father, or perhaps a registered guide, who had "apprenticed" in the region under the surrendering EGA holder and accordingly, is more knowledgeable of the area than other applicants. By following such a procedure the Board would promote compliance with its own regulation restricting the transfer of guiding area permits.

Recommendation No. 4

GLCB should adopt procedures to improve the administration of the oral portion of the registered guide examination.

The oral portion of the registered guide examination is arbitrary and inconsistent in content and grading. This is because the examination content and grading guidelines are left to the discretion of the individual examiners.

To qualify for licensure as a registered guide, an applicant must successfully pass the registered guide examination. This examination, which is prepared and administered by GLCB, is composed of two parts, a written and an oral section. Passage of the examination requires the applicant to obtain a score of 80% on both sections.

GLCB procedures require the oral portion of the registered guide examination to be administered by three examiners, consisting of a Board member and two master guides. Questions asked by the examiners are based on an oral exam sheet, which does not limit examiners to specific questions nor does it provide predetermined question grading values.

This allows individual examiners to emphasize whatever subject areas they wish in the questioning of applicants. Despite the lack of specific grading criteria on which to base examination scores, instances were noted in which applicants narrowly failed exams by combined examiner scores as high as 79%.

The inconsistency of exam content and grading is demonstrated by the following example. In February 1985, an applicant failed the oral portion of the examination. The reason for failure noted by the examiners was that the applicant needed more hunting experience in the field. Examiners recommended the applicant obtain specific area experience along with spring, late fall, and winter experience. One month later, the applicant took the oral examination again, and was passed by an examination committee made up of three different examiners.

GLCB appears to have demonstrated its own doubts regarding the validity of oral examination results. GLCB's regulation 12 AAC 38.010(c), states the failure to achieve a passing score on either section of the examination constitutes failure of the entire examination. However, on several occasions, after having been petitioned by applicants who passed the written portion of the exam while failing the oral portion, the Board waived the requirement that the written portion of the examination be retaken.

The lack of specific guidelines dictating the objective administration of the oral portion of the registered guide examination has resulted in inconsistent content and grading between individual examinations. The likelihood of exam passage is as much affected by who the examiners are and their individual judgement as it is by the knowledge and competence of the applicant.

Structured guidelines governing the administration of the oral portion of the registered guide examination should be implemented by GLCB. These guidelines need to provide examiners with specific directions as to examination questions to be asked and their assigned grading values. If implemented, structured guidelines will provide a more objective means of administering the examination. This will provide the Board with more of a fair and consistent test of applicant competence.

Recommendation No. 5

GLCB should seek both statutory and regulatory changes in order to improve the protection of the public from unethical guiding practices.

One of the primary purposes of licensing and regulating guides is to protect the public from unethical guiding practices. We identified regulations and statutes that serve to block effective consumer protection action on the part of GLCB and serves to protect guides at the expense of the public. We recommend that GLCB enhance its consumer protection responsibilities by taking the following actions:

- A. Pursue amendment of statutes that limit GLCB's authority to discipline guides for unethical activity.
- B. Adopt regulations and/or recommend legislation to require guides to post performance bonds.

Statutory Constraints to Effective Disciplinary Action

Alaska Statute 08.54.200(a)(1) does not allow the Board to consider complaints of unethical or incompetent guiding practices until receiving complaints from "... three or more clients [hunters] of separate [hunting] parties."

In the course of our review we found four instances where guides had two allegations of unethical guiding activity, as defined by GLCB's regulations, but still had not been brought before the Board for review. Law enforcement officials told us that the statute requiring three separate complaints was particularly onerous for effective resolution of consumer complaints. Law enforcement officials are put in the position of consumer ombudsman, trying to mediate and negotiate settlements of hunter-and-guide or guide-and-guide disputes.

GLCB's effectiveness and visibility would be enhanced if all allegations regarding unethical guide practices was brought to it for review on a case-by-case basis. It appears that the intent of the statute was to keep down the number of frivolous and unfounded complaints against guides. Other professional licensing boards listen to, and sort through, all cases and complaints, no matter how trivial, as a means of keeping apprised of the conduct of their licensees. We recommend that GLCB begin doing the same.

Bonding of Guides

Almost all hunters who use guiding services are non-residents, a large number from outside of the United States. As a result, when disputes arise between guides and hunters it is often very difficult and expensive for the complaining

hunter to seek legal remedies or implement administrative action. This difficulty is compounded by the three complaint requirement of the statutes discussed previously.

In the course of our review, we noted four cases where a non-resident hunter and guide were disputing the refundability of a deposit. One example, two out-of-state hunters sent in deposits of \$2,500 six months in advance of a hunt. Just prior to their departure for Alaska, the guide notified them that he would have to cancel their hunt. He offered to apply their deposits to a hunt the next year, but the hunters decided they wanted a refund. The guide did not respond to requests, and due to the statutory three complaint requirement, law enforcement officials were not able to bring the dispute before GLCB. The two hunters retained a Fairbanks attorney to pursue legal remedies, but soon abandoned the effort due to costs of litigation.

We recommend that GLCB pursue the necessary statutory and regulatory changes that would implement a mandatory requirement that guides post performance bonds. Performance bonds would allow hunters with legitimate grievances and claims against guides an easier, less expensive alternative in obtaining settlement of their claims. Guiding is a large industry in the State. It is important that GLCB do all it can to maintain the integrity of the guiding industry and uphold the reputation of the Alaskan guides with hunters outside of the State. The Board should recognize the unique type of consumer for guide services and take steps to adequately protect the interest of the out-of-state hunter/consumer.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need as defined in the "sunset" law. These analyses are not intended to be comprehensive, but to address those areas we were able to cover during our review.

- I. The extent to which the board, commission, or program has operated in the public interest.
 - A. The Board has adopted regulations defining unethical conduct which clarify and strengthen the professional's responsibility to the public.
 - B. The Board does not consistently review the Department of Fish and Game game management information prior to assignment or transfer of an exclusive guiding area (EGA) (see Recommendation No. 1).
- 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.
 - A. Regulation 12 AAC 38.054(b) allows an EGA permit holder to designate the qualified guide to whom he wishes to transfer his guide area. These transfers often take precedence over other guide area assignment criteria such as joint user objections, experience in the game unit, or game management considerations (see Recommendation No. 3).
 - B. Alaska Statute 08.54.200(a)(1) does not allow the Board to consider complaints of unethical or incompetent guiding practices until receiving complaints from three or more clients of separate parties regardless of the potential magnitude of the unethical act (see Recommendation No. 5).
- III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.
 - A. Senate Bill No. 294, which was introduced in April 1985 by the Resources Committee, contains the following items which should enhance public protection if ratified:

1. An amendment to AS 08.54.010 would increase game management considerations in regulating guide activities (see Recommendation No. 2).
 2. An amendment to AS 08.54.040 and a proposed new section (AS 08.54.195) would require consistency in procedures used in allocating EGAs (see Recommendation No. 1).
 3. New sections would require those guides that contract with more than one client at a time (an outfitter) to maintain a surety bond of \$5,000 (see Recommendation No. 5).
 4. The bill would require closer supervision over assistant guides while in the field.
 5. Unethical activities would be amended to include unsafe or unsportsmanlike actions that are detrimental to the game resources of the State.
 6. Statutes dictating qualifications for, and restrictions on, transporters would be repealed. Many of the services now being provided by transporters would be subject to the proposed outfitter statutes contained in this bill.
- B. Additional portions of SB 294 which do not appear to us to be in the public's best interest are as follows:
1. Current law limits the number of Board members that have guide licenses to no more than three of the seven members. SB 294's amendment of AS 08.54.010 would require that at least three Board members be active guides. This amendment would increase the potential for expanding the number of industry members on the Board at the expense of public participation.
 2. Currently, AS 08.54.200(a)(1) does not allow the Board to consider complaints of unethical or incompetent guiding practices until receiving complaints from three or more hunters of separate parties. SB 294 contains an amendment of this statute which would require that these complaints be received within five years prior to the hearing date. This would compound those problems outlined in Recommendation No. 5.

3. Currently, AS 08.54.210(a)(6) makes it unlawful for a master or registered guide to employ or supervise more than three assistant guides at the same time.

SB 294 would repeal this statute and could allow a master or registered guide to employ more assistants than they are capable of effectively supervising. The experience and professional judgement of the master or registered guide may not be available to clients when needed.

Alaska Statute 08.54.141 of this bill also provides that assistant guides shall be supervised at all times while in the field on guided hunts. The potential problem noted above will depend on enactment of this new section and on the Board's interpretation of the term "supervised."

4. Enactment of amendments to AS 08.54.200(c)(3) may unnecessarily restrict those hunting statutes or regulations upon which the Board can take disciplinary action.

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.

- A. 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 at least five newspapers throughout the State. In addition, guides are notified by registered mail of meetings that might affect them.
- B. Publication of meeting information does not always precede the meeting by a reasonable time period. We found that the public was given less than a one week notice for two of the last eleven Board meetings.
- C. Teleconference meetings are not being noticed publicly. This limits public input at those meetings and may legally jeopardize Board decisions and actions.

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

- A. As stated under 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.
- B. Those problems noted in IV B and C above also represent potential problems in this public need area.

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.

- A. Since July 1983, ten complaints have been filed with the Ombudsman's Office concerning Board activity. Only one of these complaints, alleging improper denial of a registered guide license, was found to be justified.
- B. Since August 1984, 19 complaints against guides have been submitted to the Department of Commerce and Economic Development, Division of Occupational Licensing for investigation. These cases appear to have been investigated in a reasonable fashion and are pending Board action or court rulings.
- C. As mentioned in III above and in Recommendation No. 5, AS 08.54.200(a)(1) does not allow the Board to consider complaints of unethical or incompetent guiding practices until receiving complaints from three or more hunters of separate parties.

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

- A. As of September 1985, 46 master guides and 361 registered guides were licensed in Alaska. These individuals were required to pass both a written and an oral exam, as well as obtaining practical experience in the field, prior to licensure.
- B. The oral portion of the registered guide examination is arbitrary and inconsistent in content and grading. This is because the examination content and grading guidelines are left to the discretion of the individual examiners (see Recommendation No. 4).

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.

A. The Board established 12 AAC 38.010(c) whereby an applicant for licensure who:

because of a language barrier, is unable to read and competently understand the English language may be excused from taking the written examination, and may be issued a license based on successful completion of the oral portion of the examination and demonstration of his capabilities and experience.

B. Regulations also provide that when assigning guide area permits,

the board will give preference to qualifying guides whose permanent residence is within the district in which the area is located.

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.

Please refer to the previous section, Findings and Recommendations.

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APPENDIX A

GUIDE LICENSING AND CONTROL BOARD
REVENUES COMPARED WITH EXPENDITURES

June 30, 1985

(UNAUDITED)

(Note 1)

	<u>FY 83</u>	<u>FY 84</u>	<u>FY 85</u>
Revenues (Schedule 1, Note 2)	\$46,000	\$53,735	\$88,578
Expenditures (Note 3)	<u>21,663</u>	<u>13,483</u>	<u>11,777</u>
Excess of Revenues over Expenditures	<u>\$24,337</u>	<u>\$40,252</u>	<u>\$76,801</u>

Schedule 1
Types of Revenues
(Note 4)

<u>Revenues</u>	<u>Amount</u>	<u>Collection Time</u>
Master Guide License	\$150	Biennially
Registered Guide License	150	Biennially
Class-A Assistant Guide License	30	Biennially
Assistant Guide License	20	Biennially
Transporter License	10	Biennially
Application For A Guide Examination	25	With Application

Note 1

This revenue/expenditure comparison was prepared from available reports prepared by Occupational Licensing personnel. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Revenues Compared with Expenditures.

Note 2

Revenue amounts reported do not include revenue obtained from the sale of game tags or hunting licenses. They only include revenue obtained from fees required to obtain and/or renew guide licenses.

Note 3

Expenditures consist of direct costs resulting from Board activities. These include miscellaneous contractual, travel, and per diem costs incurred by Board members and the Board's licensing examiner. The amounts do not include the administrative expenditures of the Division of Occupational Licensing such as employee salaries or the expenditures made to other departments such as the Department of Law, which assist the boards and the Division.

Note 4

Amounts reflected are those established by statute for FY 85. Chapter 37, SLA 1985 provides that the Department of Commerce and Economic Development shall set license fees effective upon adoption of said regulations.

APPENDIX B
GUIDE LICENSING AND CONTROL BOARD
EXAMINATION STATISTICS

Number of Examinations Given in FY 1984-1985 (Note 1)

<u>Fiscal Year</u>	<u>Written Exam</u>		<u>Oral Exam</u>		<u>Total</u>
	<u>Passes</u>	<u>Fails</u>	<u>Passes</u>	<u>Fails</u>	
1984	22	13	26	7	41
1985	19	9	17	4	30

Note 1

Licensure as a registered guide requires a passing score on both a written and oral examination. Licensure as a master guide requires a passing score on an oral examination only. Licensure as assistant guides and transporters does not require examination.

APPENDIX C

GUIDE LICENSING AND CONTROL BOARD
ADMINISTRATIVE STATISTICS
September 30, 1985

Currently Licensed

Master Guides	46
Registered Guides	361
Class-A Assistant Guides	139
Assistant Guides	829
Transporters	141

Board Meetings Between
July 1, 1983 and June 30, 1985

July 17-22, 1983
October 25-26, 1983
December 7-13, 1983
March 12-17, 1984
December 13-14, 1984
February 9-17, 1985
March 18-19, 1985

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

December 23, 1985

Mr. Gerald L. Wilkerson
Legislative Auditor
Legislative Audit Division
Pouch W
Juneau, AK 99811

RECEIVED
DEC 24 1985
LEGISLATIVE
AUDIT

Dear Mr. Wilkerson:

Re: Preliminary Audit Findings
Guide Licensing and Control Board

Thank you for the opportunity to comment on your preliminary audit report on the Guide Licensing and Control Board.

Our position remains the same from previous correspondence in that, we concur with your findings and recommendations, and also support continuation of the board. We once again offer the following comments regarding your recommendations:

In reference to recommendation #1, it is important to note that many of the actions or decisions made by the Guide Licensing and Control Board were made upon advice and support of counsel from the Department of Law. This is done especially in relation to your finding that hearing officer decisions are replacing that of the Guide Licensing and Control Board where setting quotas for guides are concerned. However, we believe the board has demonstrated an honest effort to act accordingly within the parameters of what they perceived to be correct, based on legal advice.

Regarding recommendation #4, this matter was brought to the attention of the board by staff of the Division of Occupational Licensing during previous board meetings. Although the board did acknowledge the need to address this issue, no time was given to address the oral examination for registered guides.

Mr. Gerald L. Wilkerson

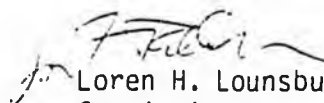
-2-

December 23, 1985

We strongly support your suggestions in recommendation #5 and feel that, although performance bonds posted by master and registered guides may not be entirely adequate to rectify all complaints, it would certainly allow some means of restitution for injured parties from receiving unethical services.

Thank you once again for the opportunity to comment on your findings and for your cooperation.

Sincerely,


Loren H. Lounsbury
Commissioner

LHL/sal:44s
122335b

The Legislature
Budget and Audit Committee
Jim Griffin, Auditor

DEC 19 1965

LEGISLATIVE
AUDIT

Recommendation #1

The Guide Licensing and Control Board (GLCB) uses the Statements of Financial Remunerations as proof of use and experience in areas when assigning Exclusive Guide Areas (EGA). There have been discrepancies in the past, the last year the GLCB have been adhering closely to the criteria of using SFRs. The GLCB seeks biological and Fish & Game surveys when they are available. This cannot always be done. Some areas Fish & Game haven't run surveys or recent surveys. Most of the time, the GLCB doesn't know which areas will be before them until the applicant comes before the GLCB with his application. This doesn't allow enough time to obtain the information. In cases that are held over and coming before the GLCB at a later date do allow time for soliciting biological information from the Fish & Game biologist located in the area involved. I have solicited Fish & Game information in several cases that are coming before the GLCB this next meeting in December 1965. I hope to get a regulation passed that requires an applicant applying for an EGA to obtain this information from the Fish & Game for presentation to the GLCB.

Along these lines there also should be a regulation requiring the same criteria for a transfer be the same as a new applicant. That is to show proof of experience in the area as would a new applicant. And going farther, an applicant for a transfer from an EGA holder to himself show proof of working with the EGA holder for a certain time. One or two years. Co-signing SFRs could be used as proof as well as additional proof, either in EGAs or joint use areas.

Recommendation #2

Regulation (12 AAC 38.053 (7) (1) applies mostly to applications for joint use areas and EGAs being applied for by more than one guide. The proposal to pass a regulation requiring the applicant to obtain Fish & Game biological information on the area applied for will help in this area.

Recommendation #3

I do not agree that an EGA holder should have to surrender his EGA to the GLCB and not have the opportunity to transfer the EGA to a guide of his choice with the approval of the GLCB. There are many cases where an EGA holder has farmed his area, carefully not to over harvest, so has improved both game populations and size of the animals in the area. To enhance game populations and sportsmen enjoyment is one purpose of the GLCB. Financial investments should also be considered in transfers, land, buildings and equipment related to guiding in the area. A guide who has spent many years building up an area with improvements to game populations should certainly have something to say about who's care the area ~~XXXXXX~~ comes under. Son, ~~XXXXXX~~ Daughter, apprentice or acule who is well qualified to guide in the area.

The GLCB has a policy not to issue a new applicant an area in joint use. In other words filing over an area that is already in joint use, or use by only one EGA holder. The GLCB is working to eliminate as much joint use as possible. This can only be done through natural attrition. The GLCB cannot choose two permit holders out of six joint users and pull their permits without due cause. I do think, and it has been the GLCB's policy the last two years. A Ega holder is convicted of some violation that merits revoking his area that is in joint use with others, that area will not be reassigned ~~XXXXXXXXXXXXXXXXXXXX~~ ..

Where the area is extremely large and dosen't have many joint users some leeway should apply to a new applicant. The guide losing the area should not have a say one way or the other in the matter. However, in cases such as this very careful scrutiny in all criteria must be made. One thing along these lines. At one time the intent of GLCB to review and reassess all EGAS. Considering size, utilization and condition of game populations. This was never done, primarily because time and budget restrictions wouldn't allow it.

Recommendation #4

Oral guide examinations:

There are inconsistencies in administering oral tests. The purpose of the oral test is to determine the applicat's practical field experience and knowledge of game habits, size and the area he is being tested for. Most of this is impossible to determine with a ~~at~~ tightly held oral tests with set questions and answers. The examiner should have some flexibility but should not be allowed to wander far afield and asking impertinent questions. There should also be a standard time for the test, say 1 or 1½ hours. One ~~xx~~ problem that keeps cropping up is first aid. I propose that an applicant be required to have passed a first aid course within the year prior to taking the guide exam.

The GLCB has been trying to upgrade this portion of the guide test. Here again, the increasing number of applications for testing each meeting is also increasing the work load of the GLCB.

Recommendation #5

There should be some changes in Statute 05.54.200 (A) (1). The change should give the GLCB some flexibility on guide complaints. Taking in consideration of the severity of the complaint. Endangering life, flagrant game violations, and unethical practices, etc. The GLCB does have a guiding ethics regulation (12AAC 38.130) The complaint are slowly being corrected since the administration was consolidated in the Department of Commerce, Division of Occupational Licensing. The GLCB investigator is investigating all complaints that come in now.

We are trying to get a section in the new guide bill, (Senate Bill #294) to satisfy the change mentioned above. Bonding is already addressed in 3294.

The bill also creates an outfitter's license and repeals the transporters license. This should help to alleviate the wide spread unlicensed guiding. These unlicensed guides are a big factor in guiding complaints.

The bill also goes into more detail on what guiding is. Enforcement people say the present bill doesn't explain guiding enough for them to make a case on ~~unlicensed~~ unlicensed guiding. The new bill should give them the tools they need to enforce that section.

The GICB would like to conduct more work on all these programs and others as well.

It is very important to the guiding industry that the GICB not be sun setted. If the guide bill is not extended or a new bill passed, the guiding industry will be plunged into a chaos that it could never recover from. Just about everyone with a super cub or 165 will become instant guides creating an impossible situation for game populations and sportsmen safety.

In addition to recommendation 14.
At this last GICB meeting we appointed 2 master guides and a registered guide to study the oral test and make up a new one that would standardize the test. These men ~~will~~ all have an educational background.

Comments Regarding Interior Letter #1
Sunset review 1971

Recommendation # 1.

I agree with all of Mr. McNutt's comments. In addition I might add. There have been a number of meetings to establish a point for awarding and transferring guiding areas. The suggested method that had the most merit was to award points for criteria relating to use of the area, financial investment in the area, residence alternate areas, etc. I would suggest that those who did so much work on this system be contacted and a system be finalized and approved. This will eliminate most of the criticism related to transfers.

Recommendation # 2.

Agree with Mr. McNutt.

Recommendation #3.

I completely agree with Mr. McNutt's comments and would like to add emphasis here. The assigned area concept will do more to elevate the quality of guiding in Alaska than any change in years. It gives the area holders a responsibility toward the area and game. Now through leases from the state and permits from the federal government, it will be possible for guides to build permanent structures in many areas. The guides will continue to increase their investments in areas. As the investment both in time and monetary increases so does the guides financial responsibility increase. After working for years to build a high quality operation it seems only just that upon retirement the permit holder would be able to choose his successor, who in nearly every case would be the most qualified person for the transfer no matter what selection criteria were used. There have been abuses of this in the past as there were some transactions that seemed to be merely real estate sales. The GLCB is aware of this and is taking a firm stance against real estate dealers. It would seem that guiding like any other business would allow a successful and ambitious business man to build some value into his business so that when it came time for retirement he would have something to sell. Because the guiding business involves land and resources that belong to the public, the burden of responsibility upon the area permit holder is great. aside from his investment in property and equipment the value lies in his concessionary right to the area and it's wildlife. If he has treated these right with regard and respect and obeyed all covenants both moral and legal it seems only right that he should be able to sell this right to another qualified individual of his Choosing. This would allow him to maximize the return for his investment.

Recommendation #4.

The GLCB commented on this in addition to Mr. McNutt's comments and covered it quite thoroughly.

Recommendation # 5.

Agree with Mr. McNutt.

Guides & Outfitters

IV

Position Paper - Department of Public Safety

BILL NO: HB 183

DATE: 3/23/87

MAR 26 1987

TITLE: An Act relating to the provision of goods or services to hunters."

CONTACT: Capt. James Nutgrass
Acting Director

~~Department of Public Safety, supports HB 183~~ an act amending the definition of big game guiding.

DEPARTMENT OF PUBLIC SAFETY
LEGISLATION

The passage of the amendments to AS 08.54.210 and AS 08.54.240 will give the Department of Public Safety an important enforcement tool to investigate and prosecute cases against unlicensed guides in Alaska. The amendments should reduce the number of unlicensed guiding activities, which will allow us to better utilize our manpower to monitor other resource problems in Alaska. The amendments will further allow our uniformed officers to better enforce the laws pertaining to guiding in Alaska. Finally, these amendments strengthen the guide bill, making it more enforceable when dealing with unlicensed guiding activities. The penalty for unlicensed guiding in Alaska is a felony with a penalty of one (1) to three (3) years in prison and a fine of up to \$5,000.00. In sum, the passage of the amendments will aid our Department in carrying out its responsibilities: The enforcement of state laws and the protection of the fish and wildlife resources in the State of Alaska.

The following amendments to this legislation are proposed:

(Page 1, lines 24 and 25)

(4) A person to advertise as, or represent to be, or act as a guide or outfitter without holding a current valid registered or master guide license.

Justification: The advertising or representing to be a guide many times occurs in the lower 48 states. However, if a person "acts" as a guide, this would most likely occur within the State of Alaska, and within the criminal jurisdiction of the State of Alaska.

By adding Master or Registered guide to this section, this eliminates the ability of validly licensed assistant guides to represent themselves as outfitters or guides. We have determined that a substantial number of outfitters operating illegally in Alaska are, in fact, licensed assistant guides.

(Page 2, line 11 and 12)

Recommended amendment to the penalty provision of AS 08.54.210(9)(A) to: In the field does not include being present in a boat with living quarters or at a permanent lodge or a lawfully established cabin that the parties have a lawful right to be using.

Justification: Many residents of Alaska suffer trespass damages by persons utilizing cabins without permission. This amendment would close the loophole that a party could use to avoid prosecution under AS 08.54.210(6) by requiring a person to use only cabins that they have a legal right to be in rather than base camps that can be easily created.

Addition to AS 08.54.210(b)(1-5) Penalty Provisions

Position Paper
HB 183
Continued

(Page 2; lines 17-21)

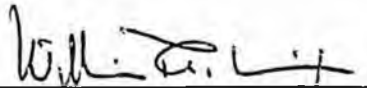
Recommend increasing the penalty provisions for violations of AS 08.54.210 (b)(1-5) to Standard Class A misdemeanor penalties which are a fine of not more than \$5,000.00 and imprisonment for a period of up to one year, or by both.

Justification: A \$1,000.00 maximum fine and imprisonment of up to six months currently allowed is not substantial enough to provide a deterrent, as judges are reluctant to imposed jail time for these cases.

(Page 2; line 23-26)

Recommend amending to the penalty provision of AS 08.54.210(10). We recommend amending the penalty provision of AS 08.54.210(9) to a Class A misdemeanor.

Justification: Standard Class A misdemeanor punishment should be sufficient to deter "clients" from engaging in this practice.



William R. Nix
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST
 Revision Date: _____
 Title: "An Act relating to the provi-
 sion of goods or services to hunters."
 Sponsor: Rep. Herrmann
 Requestor: House Resources

Bill Version: H3 183
 Publish Date: _____
 Agency Affected: Public Safety
 BRU: Fish & Wildlife Protection
 Components: Enforcement

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Kyle Weaver
 Division: Fish & Wildlife Protection

Phone: 269-5539

Date: 3/23/87

Approved by Commissioner: William R. Nor
 Agency: Public Safety

Date: 3/24/87

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

Guides & Outfitters

v

Position Paper - Division of Occupational Licensing

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

APR 24 1987
STEVE COWPER, GOVERNOR

P. O. BOX D
JUNEAU, ALASKA 99811-0900
PHONE: (907) 465-2534

April 22, 1987

Dear Legislator:

At the Guide Board meeting held in Fairbanks, Alaska on April 11-14, 1987, the board unanimously adopted the following resolution and requested that the resolution be copied to each member of the Legislature:

"The Guide Board wishes to go on record as supporting Senate Bill 191."

SB 191: An Act relating to guide licensing fees; amending the definition of big game guiding; prohibiting compensation of an unlicensed person for guiding; and prohibiting a person not licensed as a guide from advertising as or representing to be an outfitter.

Sincerely,

DIVISION OF OCCUPATIONAL
LICENSING

5836W42287a

Guides & Outfitters

v1

AG's Opinions on the Issue of Residency & Licenses

Steve Cowner, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

December 8, 1986

The Honorable Jim Duncan
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

Re: Hunting guide area
residency requirements
A.G. No. 661-87-0259

Dear Representative Duncan:

Your request of December 2, 1986, to the Acting Attorney General for "an opinion concerning the current guide licensing law and a constitutional question about residency requirements" has been referred to me.

As you are no doubt aware, in 1986 the legislature reimposed a residency requirement on professional guiding activities in Alaska. (A similar requirement had been repealed in 1983, following an Attorney General's opinion that the requirement was most likely unconstitutional.) As amended by sec. 20, ch. 71, SLA 1986, the relevant section reads:

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

. . . .

(3) a person to guide without having a current valid guide license and resident hunting license in actual possession;

. . . .

(6) a person to guide without being validly licensed as a guide under this chapter and as a resident hunter under AS 16

On September 29, 1986, in response to a request from the director of the Division of Occupational Licensing, Department of Commerce and Economic Development, the Attorney General issued a formal opinion concerning the residency requirement imposed by AS 08.54.210(a). A copy of the opinion is attached to this letter. The gist of the Attorney General's opinion is that the state cannot discriminate against nonresidents in its regulation of the guiding

A.G. No. 661-87-0259

profession. That is, the opportunity to professionally guide hunts in Alaska must be the same for residents of Alaska and for residents of other states. The analysis supporting this opinion is equally applicable to the state's assignment of restricted guide areas to individual guides (see AS 08.54.195). The opinion does not, however, make any pronouncement as to the validity of AS 08.54.040(a)(7), which states:

Sec. 08.54.040. Powers and duties. (a) Except as provided in AS 08.54.045, the board shall

.

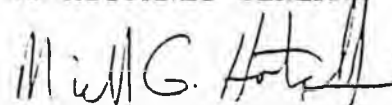
(7) establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable, reasonable, and consistent procedure for limiting the number of guides to that quota; preference may be given to qualified available and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

(emphasis added.) The distinction in AS 08.54.040(a)(7) is significantly different from the distinction drawn in AS 08.54.210(a). AS 08.54.040(a)(7) distinguishes not between residents and nonresidents of the state, but rather between a resident applicant for a restricted area and applicants who do not reside in the applied for area. The 1986 amendments (sec. 6, ch. 71, SLA 1986) changed the language of this section from "preference shall be given" to "preference may be given." Again, the September 29, 1986, Attorney General's opinion expresses no view as to the validity of this provision.

I believe that the September 29, 1986, formal opinion of the Attorney General answers your questions. If you have further questions which are not answered by the opinion, feel free to contact me.

Sincerely,

RONALD W. LORENSEN
ACTING ATTORNEY GENERAL

By: 
Michael G. Hotchkin
Assistant Attorney General

MGH/ma

enclosure

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

September 29, 1986

Kathy Marshall, Director
Department of Commerce
and Economic Development
Division of Occupational Licensing
P.O. Box D
Juneau, AK 99811

Re: Resident hunting license
requirement for guides;
AS 08.54.210(a)(3), (a)(6)
Our File: 661-87-0063

Dear Ms. Marshall:

In your memorandum dated July 22, 1986, you asked several questions concerning AS 08.54.210(a)(3) and (a)(6). You asked, first, if the cited sections prohibit a currently licensed registered guide, master guide, class-A assistant guide, or assistant guide from continuing to work as a guide in Alaska if the guide does not possess a resident hunting license. Second, you asked whether the division of occupational licensing must reject new guide license applications filed by persons who do not possess resident hunting licenses. Finally, you asked our opinion regarding the constitutionality of the requirement imposed by AS 08.54.210(a)(3) and (a)(6) that a person must possess a resident hunting license in order to guide in Alaska.

Only your third question need be answered. The short answer to that question, which has been provided to you by

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

Kathy Marshall, Director
Division of Occupational Licensing
661-87-0063

September 29, 1986
Page 2

memorandum dated August 3, 1986, is that the residency requirement imposed by AS 08.54.210(a)(3) and (a)(6) is unconstitutional as applied to currently licensed or prospective guides in any of the listed guide categories. Your department need not and should not implement or enforce the requirement that a guide must possess a resident hunting license. The relevant sections should be read as if the word "resident" did not appear. Thus, the requirements that a guide be validly licensed as a hunter under AS 16, and have a current (resident or nonresident) hunting license in actual possession while guiding, are valid and should be enforced.

BACKGROUND

The qualifications for a person to receive a master guide license are found at AS 08.54.100, for a registered guide license at AS 08.54.110, for a class-A assistant guide license at AS 08.54.120, and for an assistant guide license at AS 08.54.140. Before July 1983, an applicant for any of these licenses was required by statute to be a resident of the State of Alaska. "Resident" was defined in AS 08.54.240(3) to mean "a person who maintains a place of residence within the state; has not claimed residency in another state for the immediately preceding 12 months; [and] shows by all attending circumstances that his intent is to make this state his permanent residence."

Kathy Marshall, Director
Division of Occupational Licensing
661-87-0063

September 29, 1986
Page 3

In 1982, following the Alaska Supreme Court's decision in Noll v. Alaska Bar Association, 649 P.2d 241 (Alaska 1982), the Alaska Attorney General opined that "it is highly likely" that a court would find each of the above-referenced residency requirements unconstitutional. 1982 Inf. Op. Att'y Gen. (Dec 3: 366-357-83). The next year, the legislature repealed each of the guide license residency requirements. Sec. 19, ch. 68, SLA 1983, p. 10, l. 25.

Unlike the repealed residency requirements, AS 08.54.210(a)(3) and (a)(6), which were enacted in 1986 (sec. 20, ch. 71, SLA 1986), do not impose a residency requirement per se on a license applicant. Instead, they require an already licensed guide to possess a resident hunting license in order to act as a guide. Such a license may be obtained only by a person who has maintained a permanent place of abode and a voting residence in the state for 12 consecutive months. See AS 16.05.940(19), "resident" defined. Thus the new provisions, like the repealed provisions, effectively restrict the guiding profession in Alaska to Alaska residents of at least 12 months' duration.

LEGAL ANALYSIS

A. Constitutionality:

State-imposed requirements that use residency status to differentiate between classes of persons wishing to pursue an occupation in a state are subject to challenge under several constitutional provisions. For present purposes, only article IV, section 2, clause 1, of the United States Constitution (the "privileges and immunities clause"), need be considered. This clause, which states, "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states," was "intended to create a national economic union." Supreme Court of New Hampshire v. Piper, 470 U.S. 274, 280, 105 S.Ct. 1272, 1276 (1985). According to the United States Supreme Court, "the pursuit of a common calling is one of the most fundamental of those privileges protected by the Clause." Piper, 470 U.S. at 280, n.9, 105 S.Ct. at 1277, n.9 (quoting United Building & Construction Trades Council v. Mayor & Council of Camden, 465 U.S. 208, 219 (1984)). The Court has stated that "one of the privileges which the Clause guarantees to citizens of State A is that of doing business in State B on terms of substantial equality with the citizens of that State." Piper, 470 U.S. at 280, 105 S.Ct. at 1276 (quoting Toomer v. Witsell, 334 U.S. 385, 396 (1948)).

Review of a residency requirement under the privileges and immunities clause proceeds in three steps. First, in order for the clause to be implicated, it must be established that the residency requirement infringes a protected privilege of a citizen of another state. Once such infringement is established, the rationale for the discrimination against the nonresident is examined to determine whether there is a substantial justification for it, beyond the mere fact that the person who is discriminated against is a citizen of another state. Finally, if such justification exists, the residency requirement is examined to determine whether it bears a substantial relationship to the particular "evil" posed by the nonresident. A residency requirement which does not pass each of the latter two steps violates the privileges and immunities clause and is constitutionally impermissible. Noll v. Alaska Bar Association, 649 P.2d 241 (Alaska 1982).

Applying the first step of this test to the statute in question, it is clear that the ability to act as a commercial hunting guide is a privilege which is protected under the privileges and immunities clause. The Alaska Supreme Court, in recognizing the practice of law as a protected privilege, noted that privileges protected under the clause include "common callings . . . ordinary livelihoods . . . [and] professional

pursuits." Shelev v. Alaska Bar Association, 620 P.2d 640, 643 (Alaska 1980). "Guiding" is defined at AS 08.54.240(3) to mean "accompanying or directing a hunter . . . for compensation or with the intent or an agreement to receive compensation" Hunting guides in Alaska generally make their living from their guiding activities. The activity of commercial guiding is, therefore, a protected privilege. Of course, AS 08.54.210(a), which prohibits a nonresident from commercially guiding in Alaska, impinges upon the nonresident's exercise of that privilege.

The next two steps in privileges and immunities clause analysis are closely related to each other. The first requires a determination of whether there is a "substantial justification" for the discrimination against nonresidents. No such justification can exist absent a showing that nonresidents are "a peculiar source of the evil" which the state's action is meant to remedy. Noll, 649 P.2d at 243. The final step requires a determination of whether the discrimination bears a "substantial relationship" to the state's objective. No such relationship exists if the state could accomplish its objective (i.e., elimination of the "evil" posed by nonresidents) through a less restrictive means than the discrimination imposed against nonresidents. Piper, 479 U.S. at 284, 105 S.Ct. at 1279.

These latter two steps pose more difficult questions than the first step, as neither the statute nor the legislative history behind sec. 20, ch. 71, SLA 1986, disclose the legislature's reasons for imposing the residency requirement on guides. The several obvious reasons which may be postulated are examined below. None of the postulated reasons survives scrutiny under the privileges and immunities clause test.

One possible justification for the residency requirement involves the safety of hunters, and is based on the presumption that resident guides are more likely to be familiar with the terrain, hunting conditions, and species likely to be encountered in the field than are nonresidents. This justification was raised by the State of Wyoming when it attempted to defend a similar guide residency requirement from a privileges and immunities clause challenge. Powell v. Daily, 712 P.2d 356 (Wyo. 1986). The Powell court held the justification to be insufficient, finding that it failed both steps of the privileges and immunities test. First, it is not a "substantial" justification, because nonresidents are not a peculiar source of the evil of incompetent or unsafe guides. The Powell court noted:

[Mere] residence in this state does not make a competent guide. If the State's position were to be upheld, a person born and raised in New York City who moved to Cheyenne over a year ago could qualify for a guiding license, while Mr. Powell, who has hunted and fished in Idaho, Montana and

Wyoming for 30 years, cannot qualify because he makes his home in Idaho Falls. The State cannot seriously contend that merely living in Cheyenne for a year makes a prospective guide a better safety risk when guiding hunters in the rugged wilderness areas of our state.

Powell, 712 P.2d at 361. This statement applies equally to the situation in Alaska. This justification fails the final step of the test as well, because the state could guard against incompetent or unsafe guides through less restrictive means than discrimination against nonresidents. In fact, it already does so by requiring each applicant for a registered guide license to pass both written and oral examinations, which test the applicant's knowledge not only of general guiding and hunting matters, but also of the particular terrain and conditions in which the prospective guide is applying to operate. 12 AAC 38.010.

Another justification for the discrimination might be that residents are more likely to know and abide by local laws and regulations than are nonresidents. This justification, too, fails for the reasons discussed above.

Finally, the discrimination might be justified if the state had some definite need to control or police the guiding industry which required that its practitioners be physically located within the confines of the state. The present record, however, discloses no such unique need, nor any greater administrative need to control or police the commercial guiding industry.

than the need to control or police the commercial fishing industry or any other industry in which both residents and nonresidents of Alaska participate. ^{1/}

Based on the information available to us, we conclude that the discrimination against nonresidents under AS 08.54.210(a)(3) and (a)(6) cannot be justified, and that the residency requirement imposed by those paragraphs on persons wishing to commercially guide in Alaska violates article III, section 2, of the United States Constitution. We note that the only courts that have considered this or a similar issue have reached the same conclusion. Powell v. Daily, 712 P.2d. 888 (Wyo. 1986) (residency requirement for applicants for guide license held unconstitutional); Godfrey v. Montana State Fish and Game Commission, 631 P.2d. 1265 (Mont. 1981) (residency requirement for applicants for outfitter license held unconstitutional).

B. Severability

Our conclusion that the residency requirements of AS 08.54.210(a)(3) and (a)(6) are unconstitutional raises the

^{1/} One other possible rationale, protection of resident guides from competition by nonresidents, is not a valid justification for discrimination against nonresidents, as "[t]he Privileges and Immunities Clause was designed primarily to prevent such economic protectionism." Piper, 470 U.S. at 335, n.13, 105 S.Ct. at 1270, n.13.

issue of whether the requirements are severable from the remaining portions of AS 08.54.210(a). AS 08.54 does not contain an express "savings clause," specifying that any provision found to be invalid is to be severed from the rest of the Act. The general savings clause set forth in AS 01.10.030, however, is applicable. This statute provides as follows:

CONSTITUTIONALITY AND SEVERABILITY. Any law heretofore or hereafter enacted by the Alaska legislature which lacks a severability clause shall be construed as though it contained the clause, in the following language, "If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be affected thereby."

The purpose of this statute is to "preserve to as great an extent as possible all valid portions of enactments by the Alaska State Legislature." Lynden Transport, Inc. v. State, 532 P.2d 700, 711 (Alaska 1975). As the court noted in Lynden, however, a general severability clause creates only a weak presumption in favor of severability. Lynden, 532 P.2d at 712-713.

The test the court announced in Lynden for determining the severability of a statutory provision is as follows: "A provision will not be deemed severable unless it appears both that, standing alone, legal effect can be given to it and that the legislature intended the provision to stand, in case others

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included in the act and held bad should fall." Lynden, 502 P.2d
at 713 (quoting Dorchy v. Kansas, 264 U.S. 236, 240 (1924)).

As to the first issue, it is apparent that if the
residency requirements are stricken the relevant paragraphs can
still be given complete legal effect. After striking the resi-
dency requirements, the subsection would read, in pertinent part:

Sec. 08.54.210. UNLAWFUL ACTS. It is
unlawful for

.....
(3) a person to guide without having a
current valid guide license and . . . hunting
license in actual possession;

.....
(6) a person to guide without being validly
licensed as a guide under this chapter and as a
. . . hunter under AS 16[.]

The next issue is whether the legislature intended the
remainder of the two paragraphs to stand, absent the residency
requirements. It is self-evident that the legislature's intent
to prohibit persons from guiding without first obtaining a guide
license, which they must carry in their possession while guiding,
is completely separate from the residency requirement. The guide
license requirements are, therefore, severable from the residency
requirements, and should be enforced. The only remaining ques-
tion is whether the legislature intended to require guides to be
licensed as hunters, regardless of the residency requirement. The

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conclude that the legislature did so intend, for the following reason. In enacting AS 08.54.210(a)(3) and (a)(6), the legislature imposed requirements that guides be (a) residents of Alaska, and (b) licensed as hunters. Had the legislature intended by this provision to require only that guides be residents of Alaska, it would have said so, and not also required guides to obtain and carry hunting licenses with them while guiding. 2

CONCLUSION

We have concluded that a court would find AS 08.54.210(a)(3) and (a)(6) to be unconstitutional, insofar as these paragraphs require a commercial hunting guide to be a resident of Alaska, because they unjustifiably discriminate against citizens of other states. Your agency should not implement or enforce the residence requirement provisions of this statute.

We have also concluded that the residency provisions of the paragraphs are severable from the remainder of the statute. You should, therefore, implement and enforce AS 08.54.210(a) as if the word "resident" did not appear therein.

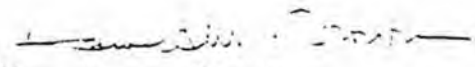
2/ Further evidence of the legislature's intent to require guides to be licensed as hunters may be found at AS 08.54.100(1) and 08.54.110(2) and 12 AAC 08.120(11).


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If you have any questions or comments about this opinion, please do not hesitate to contact us.

Sincerely,


Harold M. Brown
Attorney General


Michael G. Hotchkin
Assistant Attorney General

HMB/MGH/ma

cc: Colonel Robert M. Henderson, Department of Public Safety
Herb Soll, Department of Law
Dennis D. Kelso, Department of Fish and Game
Ray McNutt, Chairman, Guide Board

MEMORANDUM

State of Alaska

TO: Sgt. Robert Boutang
Division of Fish & Wildlife
Protection
Department of Public Safety

DATE: July 29, 1986

FILE NO: 661-87-0055

TELEPHONE NO:

FROM: Harold M. Brown
Attorney General

SUBJECT: Interpretation of
guide statutes and
regulations under
ch. 71, SLA 1986

By: Sarah Elizabeth McCracken ^{SEM}
Assistant Attorney General
Natural Resources-Anchorage

Your request of July 22, 1986 raised several questions regarding interpretation of the new guide law, ch. 71, SLA 1986, and guide board regulations under this new regime.

Your first inquiry was whether Fish and Wildlife Protection officers should be directed to enforce AS 08.54.210(a)(3), which makes it unlawful, inter alia, for a person to guide without having a resident hunting license in possession. The term "resident" is defined in AS 08.54.240(4) and AS 16.05.940(19) to mean residency for 12 consecutive months.

You should be aware that Richard Long, Chief Investigator for the Department of Commerce and Economic Development, division of occupational licensing, has already requested a written Attorney General's opinion on the question of the constitutionality of the residency requirement in the new guide law. That request is pending, and an opinion will probably not be issued before your meeting on July 30. I am enclosing, however, a copy of the bill review letter from the Attorney General to the Governor regarding HCS CSSB 294 (Res) am H, the bill enacted as ch. 71, 1986. Page five of that letter discusses briefly the residency requirement in section 20, and notes that durational residency requirements for obtaining vocational or professional licenses have previously been held invalid, and that a court is unlikely to uphold the provision. Unless there is a strong record demonstrating a legitimate state need to impose a durational residency requirement, it is unlikely that a charge of violating AS 08.54.210(a)(3), with respect to the resident hunting license, would result in a conviction. Although our formal response to Richard Long's request is being drafted by another attorney and is not yet available, it is unlikely that the opinion will recommend enforcement of this provision.

Your second question related to criminal sanctions for violations of guide regulations. As explained on page five of

the attached bill review letter, section 20 of the bill (now AS 08.54.210(a)(2)) makes it clear that it is unlawful (a misdemeanor) for a guide to commit a violation of a guide statute or a guide regulation. Therefore, for example, a guide could be charged under AS 08.54.210 and 12 AAC 38.060 for failing to file or have in camp a statement of financial remuneration, and could be charged with violating 12 AAC 38.070 (responsibility of guide to his client), about which you specifically inquired.

You also asked whether a guide could be charged criminally with guiding in another guide's exclusive guide area. The answer to that question is also yes. The express terms of AS 08.54.210(a)(2) apply to a violation of a guide regulation, and this intent is further clarified by the reference in AS 08.54.200(c)(4) to a "conviction for hunting in a restricted area not assigned to the licensee without proper written permission." (Emphasis added).

You also inquired about the requirement in 12 AAC 38.090 that 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." This regulation is not affected by the changes in ch. 71, SLA 1986, although the regulation is made somewhat more clear by the new definition of "guide" or "guiding" in AS 08.54.240(3). The new definition provides:

(3) "guide" or "guiding" means accompanying or directing a hunter in the field, personally or through an assistant, for compensation or with the intent or an agreement to receive compensation, while the hunter or the person accompanying or directing the hunter spots, stalks, pursues, tracks, kills, or attempts to kill big game; in this paragraph, "in the field" does not include being present in a boat with living quarters or at a lodge or base camp;

There is no specific definition of the term "in the field" in the statute or in guide board regulations, but the new statute does clarify that "in the field" does not include being present "in a boat with living quarters or at a lodge or base camp." If "in the field" does not include being at a lodge or base camp, it must mean being in the hunting area, including being at a spike camp or actually stalking game. Because there is no special legal meaning attached to the term "in the field" (other than that now clarified in ch. 71, SLA 1986), the term should be interpreted consistent with its common dictionary

Sgt. Robert Boutang
Division of Fish & Wildlife Protection
661-87-0055

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meaning. See State v. Debenham Electric Supply Co., 612 P.2d 1001, 1002 (Alaska 1980) (unless words have acquired special meaning by statute or case law they are to be construed in accordance with common usage); see also AS 01.10.040. For a general definition of "field" in the context of hunting, see Webster's Third New International Dictionary 845 (1971 ed.) In short, the term "in the field" should be interpreted in accordance with its common usage in the context of the specific facts of each case. If you have questions about a specific case, please contact this office or the District Attorney's Office.

Finally, you asked how the new guide bill affects outfitters or people who simply transport hunters or game for hire. Section 27 of ch. 71, SLA 1986 repeals AS 08.54.142--AS 08.54.146, the statutes governing transporters. Accordingly, it is now no longer necessary for a person who merely transports hunters or game to obtain a transporter's license or file a report. Similarly, a person who, for example, rents hunting equipment (tents, vehicles, etc.) and perhaps also provides transportation to a lodge or base camp, but who does not accompany a hunter on the hunt (in the field), is not required to obtain a guide's license. The new definition of "guiding" in AS 08.54.240(3) is somewhat different from the former definition, but still only applies to a person who, for compensation, accompanies or directs a hunter in the field "while the hunter spots, stalks, pursues, tracks, kills, or attempts to kill big game." For a discussion of the meaning of "guiding" that is based on the former AS 08.54.240(2) but which remains valid under the amended language, see 1977 Inf. Op. Att'y Gen. (Sept. 26; Meacham), copy attached.

If you have additional questions, please let us know.

SEM/jmo
Encl:

cc: Capt. James Nutgrass
Col. Red Henderson

Part 11

House Resources Committee Hearings

Guides & Outfitters

October 1987

House Bill 183

Senate Bill 191

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Guides & Outfitters
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Selected Articles

Four charged with illegal guiding

The Associated Press

Four Anchorage men have been indicted for illegal guiding activities and a fifth has pleaded no contest to a related charge, the Alaska State Troopers said Friday.

James Baum, 44, was indicted this week on 24 counts for allegedly illegally guiding two undercover police officers and two unlicensed hunters from Australia.

A grizzly bear, three caribou, a moose and a deer were taken on the illegal hunts last fall, the troopers said.

Two aircraft, a Piper Super Cub and a Cessna 180 on floats, were seized, along with several rifles and big-

game trophies, the troopers said.

In a related case, Steven Hart, 26, pleaded no contest to possession and transportation of illegally taken game. Troopers said the charges stemmed from a hunt that Hart participated in with one of Baum's Australian clients.

In a separate case, Jake Gaudet, 35, Keith Mattison, 35 and David Somers, 34, were charged with guiding without a license and possession of illegally taken game. Gaudet owns Jake's Alaska Wilderness Outfitters. Mattison and Somers were his employees.



Times 4/25/87

Dentists indicted on four felony counts of illegal hunting, transporting

KENAI (AP) — Dentists from Kenai and North Pole have been indicted by a federal grand jury for a variety of illegal hunting activities.

Jerry DeFoor and Errol Remsing are charged with four felony counts of illegally taking

and transporting wildlife. Each charge carries a maximum penalty of five years in jail and a \$250,000 fine.

According to the U.S. Attorney Steve Cooper in Fairbanks, Remsing is accused of conspiring with DeFoor to hunt by illegal

means, out of season, in closed areas and of illegally transport wildlife.

In addition to conspiracy, DeFoor is charged with three counts of hunting unlawfully in Canada and transporting the animal parts illegally into the

United States.

Remsing also is charged with 17 other felony and misdemeanor counts based on the acts in the alleged conspiracy.

According to Cooper, the illegal activity took place in the Arctic National Wildlife Refuge,

Yukon Flats, the Noatak National Preserve and other parts of Alaska and Canada closed to hunting.

The indictments are based on "sting" operation set up by undercover U.S. Fish and Wildlife Service agents.



Letter From the President

by Phil Driver

How long can Alaska's high quality game resource withstand the ever-mounting pressure of present-day mass hunting, supported by mechanically efficient and dependable transportation?

There are several factors which when combined, will bring this loss of quality more surely. The quality I refer to is the older trophy animal, which we as guides select for our clients. A subjective truth in trophy hunting is "you can have your cake and eat it too."

What are the factors that adversely affect trophy game populations? Obviously overhunting is the cause that brings it about. It takes a long time to grow trophy-sized animals.

The State Constitution mandates maximum sustained yield. In practice this has been translated to mean, Maximum Sustained Harvest, which does not lend itself to the viability of a trophy age class of animals. The latest word we have been hearing is BIOMASS. If the biomass is there and the game resource sustains itself, all is well. Not so, I believe the quality of the mass has to be considered. A sustained cross section of all age section of all age groups that make up this mass is a justifiable concern.

The loss of large areas in Alaska for recreational hunting by Federal closure, added to congestion in the areas that were left open.

The reluctance to address the use of engine or motor-powered conveyance, to more easily pursue game, is another real concern. I do not see much difference, say between an aircraft or a snow machine the same day it has been used for transportation in pursuit of game.

The use of powered mechanical convenience is certainly necessary to transport individuals into back country, for access to the hunting and for speedy transfer of meat from the field. Which, in itself, will produce more salvageable meat for the table. Common sense and a conservative mind tell us we do not have game populations that will stand unlimited hunting. That is the reason

we have seasons, bag limits and restrictions, on methods and means. Unfortunately, I do not believe the people we have representing Alaska in Juneau, as Senators and Representatives, have one care in the world about the general well being of the State's game populations, or realize its importance.

Alaska's game resource is important in several ways. The trophy game of Alaska has since Territorial days been a drawing card for new money, to be left here by the non-resident hunter who comes here to hunt. These hunters paid hard cash for their licenses, tags and the services of guides; who were licensed even at that time.

The licensing in Territorial days was administered by the U.S. Fish and Wildlife Service. Not only were the guides licensed to guide, but were also sworn in as game wardens. Mark Jensen, a past chairman of the first Alaska Guide Board, shared this point of interest by sending me a copy of the original document he received, way back when, accompanying his numbered bronze badge and authorization as a Territorial Game Warden.

In this present day and age Alaska's trophy game continues to draw outside money and provides the income for the long standing profession of the Licensed Guide.

Compounding the age-old use of wild game as meat on the table is the recent emphasis placed on the subsistence use of the resource, by a particular socio-political group, here in Alaska.

It is apparent, that with some of the subsistence users, there is a definite effort to dramatize need of particular game populations, by over use, to prove a point.

The latest uncontrolled pressure on the wild game resource, is the drop off outfitter operation. This type of operation has virtually exploded in the last three years. Typically the drop off outfitter has one to several multi-seated aircraft flying out hunters as fast as he can. No control or handle by the state whatsoever on this type of operation.

Unfortunately, as I stated earlier, our legislatures and the Alaska Board of Game seemingly are unaware or could care less, about the consequences of this latest unprecedented pressure is having on the big game animals. Many

of these self-proclaimed outfitters are not even residents of the State of Alaska. In all fairness to the powers to be, my accusation of uncaring may be too harsh a judgement, but most certainly they are unaware.

Some of these drop off round-trip would-be hunters to the field and back for as little as \$400.00 per head, from the prearranged pick-up point. It takes a whole lot of \$400.00 hunters to add up enough to make this type of operation pay. This is where the problem of the drop off operator lies. VOLUME, volume is the only way to make it pay. The quality of game drops quickly when there are many more hunters than there are trophy animals. Not one of these type hunters wants to go home empty handed. However, when by overhunting an area, which a licensed guide has cared for, to maintain quality, the outfitter picks up and moves to some place else.

If you are one of the drop off consumers, who gets in on the first or maybe even the second year of the bulk drop off operation, you may luck out and get a nice trophy, but I'll guarantee you in short order it's over.

The guide who is restricted to operate in a specified area and has farmed it conservatively to maintain an on going trophy population, is left holding the bag. Unfortunately, our short sighted Legislators as well as all consumers will be in the same boat with the professional guide in one significant way, for there will be no quality resource left for anyone.

It takes a long time for a trophy game population, once depleted, to turn around. A for-instance is the Alaska Peninsula Moose population and the Nelchina Caribou herd. There are many more examples, this is just two of them.

It is not too late to address this oversight and conserve the one renewable resource that has always provided Alaska with hard cash and food on the table. We CAN maintain the high quality trophy wildlife Alaska has always been known for.

Sincerely,

Phil Driver

Illegal Commercial Operations Affecting the Alaska Professional Guide

by Robert Boutang
Alaska Department of Public Safety
Fish and Wildlife Protection
Statewide Investigations

In 1973 the Guide Licensing and Control Board was formulated as the regulatory body for the guiding industry. In the mid 1960's to the mid 1970's, drastic regulation changes in seasons, bag limits and methods of taking game had a direct impact on many of the guiding operations.

These ten years of regulation changes had the most direct impact on the guiding industry. During these ten years, the brown bear season on the Alaska Peninsula was cut from nine months per year to four weeks every two years. The use of aircraft was also severely limited by regulation. It was understandable with the numerous statute and regulation changes that did occur in such a short period of time, that some guides found it difficult at best to adapt their guiding operations to meet the changing times. What were legal methods of hunting

one day were all of a sudden illegal the next.

In many cases, however, some guides did operate as though there were no restrictions on the methods and means of taking big game. We did, in fact, have guides who operated with little fear of being apprehended in the commission of a crime.

In 1972, one of the enforcement priorities established within the Division of Fish and Wildlife Protection was the illegal guides who persisted in continually taking big game animals unlawfully.

Through the efforts of the Guide Licensing and Control Board in establishing standards, regulations and exclusive and joint use areas, in conjunction with a concerted enforcement effort taken by the Division of Fish and Wildlife Protection in the 1970's, we have seen a dramatic decline of the flagrant illegal guide operations.

The State of Alaska can take pride in the fact that we now have a professional guiding industry that provides an outstanding service to a clientele from all

over the world and the revenue that is generated from the guiding industry is one that benefits many people and businesses inside the State of Alaska.

Today, we face a new problem that concerns and affects the professional Alaskan guides, the public and State of Alaska. This concern is the unlicensed individuals who are in fact booking clients and acting as guides. It is now known that there is more illegal unlicensed guiding activity than anyone thought existed.

This is one concept of illegal guiding which virtually has never before been worked by Alaska Fish and Wildlife Protection. The Investigative section of Fish and Wildlife Protection is now developing intelligence regarding this problem. The Division has established unlicensed guiding operations as one of our main enforcement priorities.

We found some of these so-called out-fitters (unlicensed guides), who provided drop-off type hunts, were actually going so far as to personally accompany the clients in the field, sailing in

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moose, using aircraft to drive and herd animals and using radio communications to aid and take animals.

Once such unlicensed guide showed a client (undercover hunter) a check which was two times the amount of a regular hunt and he said, "This is what I get for my hunts and I produce more record book animals than anyone in Alaska and I don't even have a guide license."

Another unlicensed guide, who recently pled guilty, took a client (undercover hunter) in Game Management Unit 9, Katmai National Park, during the off season and killed a brown bear the same day he was airborne. He also tried to solicit our hunter into getting him more clients. This is the type of people we are dealing with; they have no respect for the legal guides or the resources.

This year our Investigative section investigated two outfitters (unlicensed guides) who took approximately 40-50 moose each in a two-year period. That is putting a serious dent in someone's exclusive guiding area and in Alaska's moose population. These illegal non-licensed guides are going into honest hard-working professional guides' areas and stealing the resources and giving hunting and the professional guides, through the publicity, a bad name. The licensed guides, hunters, the general



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*Record Class Spring Grizzly taken by John Macaluso of
Murrysville, Pennsylvania 1965*

public and the wildlife are all the victims.

These types of illegal operations have a direct effect on the licensed professional guide whereas the licensed guide must adhere to statutes and regulations which affect his operations.

While we do have the problem of unlicensed guides in Alaska, we first have to identify the people involved. To do this, we need all the help we can get from the Guide Board, professional guides and the concerned citizens.

In addition, it is extremely important that the Guide Board, professional guides, concerned public, and our Division continue to mutually cooperate in identifying individuals who are unlicensed and are acting in the capacity of licensed guides.

The unlicensed guides do not have to follow any laws. They are not bound by restrictions or ethics and in many cases, they have a total disregard for the resources and other guides. They take game anytime and place and use any methods they want to.

Only through the continuing cooperation of all of us working together can we hope to reduce the illegal unlicensed guiding operations that exist in the State of Alaska.

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New Life Sustaining Members

Charter Life Sustaining membership's final issuance was December 31, 1984. However, another classification was created which is referred to as Life Sustaining membership offered for \$250.00 instead of the \$200.00 Charter Life Sustaining offer. The following person has joined as a Life Sustaining member:

Charles Folkman of Oconomowoc, Wisconsin

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Alaska Department of Public Safety
PRESS RELEASE

RELEASE #1

On April 16, 1987, an Anchorage Grand Jury returned true bill indictments against John "Jake" Gaudet, age 35, Keith Mattison, age 35, and David Somers, age 34, all of Anchorage. Gaudet is the owner of Jake's Alaska Wilderness Outfitters, a big game hunting outfitter service in Anchorage. Mattison and Somers were employees of Gaudet. The men were charged with Guiding Without a License, and Possession of Illegally-Taken Game. The violations occurred during caribou and moose hunts near McGrath and King Salmon in August and September of 1986. Trial was set for May 18, 1987 in Superior Court in Anchorage.

RELEASE #2

On 4/23/87 in Anchorage District Court, Barry R. Stafford age 36 and Gregory C. Synner age 28, both of Wasilla entered pleas of no contest to the charges of attempting to guide without a license. The charges stemmed from an investigation conducted by troopers of the Statewide Investigation Section of the Division of Fish and Wildlife Protection in Anchorage. An undercover trooper was guided on a caribou and grizzly bear hunt by the two men operating S & S Outfitters near Cantwell, during last fall's hunting season. The two men were each sentenced to serve six months in prison, pay restitution to the state of \$800.00 and lost hunting privileges for three years. 120 days of the prison sentence was suspended on the condition that they successfully serve three years of probation.

RELEASE #3

On April 16, 1987, an Anchorage Grand Jury returned true bill indictments in a 24 count complaint against James L. Baum, age 44 of Anchorage, for illegal game and guiding violations. The violations occurred during a three month period in the fall of 1986. Baum was charged with illegal guiding of two undercover police officers, and two unlicensed hunters from Australia. A grizzly bear, three caribou, a moose and a blacktail deer were killed during the violations. Two aircraft, a Piper Supercub and a float-equipped Cessna 180, along with several rifles and animal trophies were seized during the investigation.

In a related case, on April 15, 1987, Steven Hart, age 26 of Anchorage, entered a plea of no contest to the charges of possession and transportation of illegally-taken game. The charges stemmed from a hunt that Hart participated on with one of Baum's Australian clients. Sentencing for Hart was set for May 13, 1987. Trial for Baum was scheduled for June 1987 in Superior Court in Anchorage.

Guides & Outfitters

viii

Letters of Support

APR 17 1987

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE HERRMANN

NAME: GARY POGANY
TITLE:
ADDRESS: BOX 323
CITY: EAGLE RIVER
PHONE: 696-2390
ZIP: 99577

BILL NO:
SUBJECT: GUIDES/OUTFITTERS HB 183 AND SB 191
MESSAGE: I ATTENDED 7 SPORT SHOWS IN THE LOWER 48. THERE WERE NUMEROUS BOOKS
LOW PRICE ALASKA HUNTS, TELLING PEOPLE NOT TO HUNT WITH REGISTERED GUIDES
BECAUSE THEY ARE LIMITED TO AREAS. ALSO TELLING PEOPLE WE CAN GO ANYWHERE.
JUST TIP PACKERS.

POMID: 03154824
DATE: 04/16/87
TIME: 15:48:24
LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES SENATORS

COTTEN	HALFORD
DAVIDSON	COGHILL
HOFFMAN	DUNCAN
NAVARRE	ELIASON
PEARCE	FISCHER
SHULTZ	JONES
SPRINGER	STURGULEWSKI
SUND	ZHAROFF

Mar 13 1987

Mystic Lake Lodge - Alaska Trophy Hunts

Master Guide George Palmer
Registered Guide Marty Palmer

Box 878
Palmer, Alaska 99645
(907) 745-3168

Representative, Edelheid Hartmann
P.O. Box 11
Juneau, AK 99811

March 11, 1987

Dear Senator:

I have just received information concerning a proposed bill that is intended to curtail or control the rapidly expanding unlicensed, and often illegal big game guiding in this state. This is an issue that many of us have tried to get the legislature to address in the past, but with absolutely no success. For some reason the legislators thought this to be a political hot potato that they best leave alone for the public sake.

We are now reaching a very critical point on this issue, as more and more people, and companies come into this state for the sole purpose of setting up volume hunting and/or sport fishing business in Alaska. Last fall The Biologist at Cordova was forced to close mt. goat hunting by emergency order, in game management unit 4 because of an over harvest in some isolated areas in Prince William Sound. That over harvest was due entirely to the so called outfitters, and airtaxi operators that are trying to make big bucks doing a volume business. Luckily their activities are thus far limited to areas that are easily accessible to float planes, and to a lesser extent, wheel planes and boats. As they deplete the goat populations in the easily accessible areas, they will no doubt expand into the rest of the goat habitat, cleaning it out as they go.

If you listen to the fish and game biologists, the field personnel with Fish and Wildlife Protection, licensed hunting guides, and legitimate Alaskan fishing lodge operators, they will all tell you, this is a serious problem throughout Alaska on most species NOW.

During my travels this winter, I attended some commercial sport shows in the south US, and what I saw at those shows puts the fish and wildlife in this state in deep trouble, and makes the licensed Alaskan guides a threatened species. Many of the people and businesses that are promoting Alaska hunting and fishing trips at those shows were NOT Alaskan entities. For instance, of the 25 "Alaskan" booths that were at the sport show in Denver, Colo., in Feb. 87, at least 12 were from outside Alaska, but actually conducting trips here. In addition, there were a number of booths from other states that were also selling trips to Alaska.

Some of what some of the booths were selling included 5 to 10 days or caribou hunts for hundreds or four or more people for \$49,000 per person. The operator told me that they had booked over 20 people for that trip, and they were still selling them. Another booth was selling 7 to 10 days and caribou hunts for \$2,100.00 per person, the fee included license and tags, and transportation from Denver, Colo., to the Alaska Peninsula and return. Considering the cost of license and moose and

Mystic Lake Lodge - Alaska Trophy Hunts

Master Guide George Palmer
Registered Guide Marty Palmer

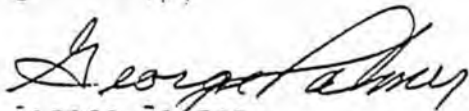
Box 878
Palmer, Alaska 99645
(907) 745-3168

car tags at \$600.00, and the air fare from Denver to King salmon can be in excess of \$900.00, cost leaves about \$540.00 for the actual hunt. Goat and bear hunts were also offered at a cost of \$990.00 per person. Alaska sport fishing was also highly popular at the shows, and although honest Alaskans probably dominated, there were some high volume operations from outside the state representing themselves as Alaskan Outfitters. One such organization bragged that they would book over 250 people for their out state Alaskan fishing trips. In addition to the fact that these outfits are selling our resources down the pipe, almost none of the monies generated remain in Alaska. In fact in some instances none of the monies ever get to Alaska.

This isn't to say that all the volume operators in this field are out of state. There are a number of in state air taxi operators, river boat operators and others that are selling cheap hunting and fishing trips and attempting to make big bucks doing a volume business. In the normal contemporary market place this type of competition is considered healthy by our society. "The free enterprise system" has been the argument in the past used by those that oppose any restrictions or controls in these areas.

However these resources, although renewable, are finite. If the current trend is allowed to continue unchecked, the outstanding wild life resources which belong to all the people of this state, will be seriously depleted. Only the state legislature has the power or authority to solve this problem. I only hope, for the sake of the wildlife of this country and the people who use and enjoy our wild heritage, that the current legislature and governor has the foresight and guts to make the hard decisions that are necessary. Our fish and wildlife represents a very valuable resource to the people of this state, and to allow anyone to wholesale these resources away is absolutely absurd.

Sincerely,


George Palmer

and Jan Parks, Senate President
Senator, Jack Cognhill
Senator, Mike Jaymanaki
Senator, Palmer Kentulla
Representative, Sam Cotton
Representative, Lucius Menard

MAR 24 1987

Ms. Greenberg

Nice talking to you yesterday, I do sincerely
~~appreciate your efforts in this regard~~, and want
to thank you for taking the time to consider my
ideas.

As I said yesterday, I believe this ~~is the~~
~~most important problem~~ the
of irresponsible and illegal hunting operators have
caused in rural Alaska.

~~It is a fact that~~ ~~the~~ ~~problem~~
~~is that~~ ~~the~~ ~~problem~~
by so called spot hunters, that is taking
place in many areas.

It is a fact that wanton waste of edible game
meat is illegal in our state, ^{however} the latitude in the
regulations is such that with a lame excuse and
the testimony of an accomplice a person may waste
all the meat taken on a hunt and keep only what
they desire, usually the trophy (antlers, horns - etc.)

Due to the large area of Alaska, it hardly makes
sense for most people to go meat hunting in a remote
area, that is people who are not local to a given
area. The logistics are such that by the time a
hunter leaves - say Anch - goes to western Alaska -
shoots a moose - packs the meat - charts it to a local
airport - ships it back to Anch - and then ships it
home - to the lower 48, or wherever - that this meat
turns out to be very expensive, as well as a lot of -

work. Because of this it becomes quite a burden for most sport hunters to get the meat from their trophy animals out of the field. The obvious easy way out of course is to waste the meat, and save only the trophy.

I know that this scenario is encouraged by most irresponsible hunting operations, and air charter business, as they offer a single price for a hunt, and the added expense and effort of retrieving tons of meat is not a welcome factor in their operations.

Under 52 C. 08.54.210 (1-2) it is illegal for any guide not to report a violation he knows or reasonably believes was committed by a client or another employee.

- Or to aid or permit a violation he knows or reasonably believes is being or will be committed.

This is a good law, as it makes the people making money off the resource, responsible to that resource.

Unfortunately this law applies only to guides. It should apply to anyone making their money from hunters and the hunting business, or for that matter to anyone.

I believe that the previously quoted regulation should be applied to anyone responsible for transporting hunters, or their take, or anyone receiving ~~such~~ trophies or meat.

I also believe that the laws governing wanton waste should be tightened. The commonly used excuse is that, "the weather ruined the meat" - or "the bears

got it". Far too often such reasons are used only as an excuse to leave meat in the field. For some reason - hunters seldom have these problems with their trophies.

The best way to prevent unwanted loss of meat while hunting, is to remove it immediately from the field. As soon as a big game animal is taken, care and removal from the field should take immediate priority.

Such a regulation is already in effect for several northern units, in respect to caribou, I believe it should be a state wide regulation in respect to all big game-edible meat.

Therefore I propose the following regulations:

① Based on the wording of SEC 08.54.210 (142) of the guide law.

- It shall be unlawful for any person or persons to transport or receive any big game animals or parts thereof that the person knows or reasonably believes, has been taken, transported or possessed in violation of State statutes, without trying to prevent such violation, short of using force, and without reporting it as soon as possible to State fish & game. Or to aid in the commission of such a violation.

② Based on -5 AAC 92.220 - C / Salvage of Game meat, furs and hides. PG 9 - Alaska Game Regs NO 27

② - The edible meat from all big game animals taken in the State shall be immediately removed from the field.

I believe that these regulations are necessary to prevent the further waste of an important resource in the state of Alaska. The importance of game meat to subsistence lifestyles and local personal use is of deep concern to most Alaskans, and its waste can no longer be tolerated.

I believe that these amendments will strengthen the bill - as opposition to such a responsible point of view - would not be well regarded by most people. However - I trust your judgement on this. Rather than jeopardize the entire bill, I would as soon see these regulations wait. But I do believe they are extremely important.

Again, thank you for your time and consideration. If there is anything I can do to assist you - please let me know.

I sincerely appreciate everything you, Ms. Herrmann and the other sponsors have done for hunting and the game resource of our State - Thank you

Sincerely
Patrick Kennedy

MIDNIGHT SUN LODGE
KIVILINA ALASKA
99750

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CALL SIGN W0Z 85

FISHING

HUNTING

PHOTOGRAPHY

Katmai Guide Service

JOE KLUTSCH
REGISTERED GUIDE

P. O. BOX 313, KING SALMON, ALASKA 99613

January 10, 1987

MEMBER



Dear Adelheid,

Thanks for allowing the time to hear about the current effort being made to eliminate the deluge of "outfitters" who are threatening Alaska's game resources. This situation has gone beyond the point of being a problem. It's an over used word these days, but for the future of quality game populations, it's a crisis.

After the meeting with Senators Faiks, [redacted] and Coghill, we felt like some progress was reached at educating these people about the problem. Faiks and [redacted] listened closely as the chairman of the guide board, several other guide board members, and Fish and Game protection officers Botang, Nutgrass, and Damico explained how quickly "outfitters" set up operations all over the state. These people have chosen to circumvent the guide license and control system. They are not bound by an area system and they have no professional standards. The guide system was from its very inception aimed at controlling commercial use of the resource. Coghill is the snag. He immediately wanted to know what we were willing to give to accommodate or "grandfather" outfitters" many of whom are his constituents. I wanted to remind him that he has more guides in his district than outfitters but that wouldn't have helped our cause. Faiks reminded us that it would only take one vote to can our effort. The problem I see with Coghills approach is that the sanctioning outfitters ignores the problem and in fact compounds it. Phil Driver felt Coghill didn't give a damn about game resources either that or he just doesn't know about the net effect these kind of operators can have.

Enclosed is the specific wording we would like to see in a bill. Much of it is based on a current guide - outfitter law (Montana) which has withstood legal tests. If any "compromises" are made concerning outfitting, I would hope they could be made in a way that requires these people be incorporated within the present guide license and control system. There simply isn't room for another class of commercial operator in Alaska. This will be sticky but I trust something can be worked out.

I'll be in touch with you after my return from several hunting conventions outside. Thanks so much for working on this legislation.

Sincerely,

EGEGIK VILLAGE COUNCIL

Box 29

Egegik, Alaska 99579

(907)233-2231

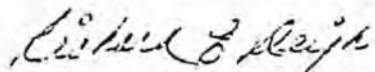
Representative
Adelheid Herman
Box 63
Naknek, Alaska 99633

RE: Hunting in Game Unit 9-E

Dear Rep. Herman:

The people of Egegik are concerned about the number of outfitters being issued permits to bring hunters into the Alaska Peninsula Wildlife Refuge. The Refuge has been a traditional source of meat for our village until recent years. Now the large number of outfitters which are not licensed by the State or controlled in any way, are flooding the area with hunters. These Outfitters are not under any State Law: they are not air taxi operators or registered guides. The result has been that the game is being killed by people who have resident hunting licenses but are really residents of other states and they often leave meat to rot. There are so many the Wildlife Protection Officer cannot check them all. Outfitters called "Wilderness Experiences" set eight hunters from Maryland out on the King Salmon River. They arrive at Egegik with eight sets of antlers and little if any meat. People who normally hunt their winter meat from this village went hungry last winter. It appears that with the excess of Caribou Hunters and lack of moose due to over hunting by outside hunters, the same thing will happen this winter. We would appreciate an answer to this letter telling us what you can do to change this situation and what you think you can do to limit the number of hunters in this area.

Sincerely yours



Richard E. Deigh
President

RE:jw

GUS & FRENCHY LAVOUREUX

P.O. Box 90444 → ANCHORAGE, ALASKA 99509 → FRENCHY, 248-4971 → GUS, 248-3012 → (AREA CODE 907)

90444

October 2, 1986

Rep. Adelheid Herrmann
House Resources Committee
1024 West 6th Avenue
Anchorage, Alaska 99501

Dear Rep. Herrmann:

I suppose this is an exercise in futility but one never knows until one tries and try we must.

My son and I are long time guides in the Ugashik Lakes area of your district and this past fall we encountered a problem that has been plaguing other guides for some time. The mass invasion of the "Outfitter" and his bargain hunting client who are mostly non-residents in both cases. It is apparently something no one can do anything about as the "rapists" do not qualify as guides and can hunt anywhere and are not bound by the laws legitimate guides are.

A solution must be forthcoming and with subsistence laws looming larger and larger each year it does not seem fair that legitimate guides with guide area investment should see their investment and future existence threatened by "Out-of-State fly-by-nighter-rapists", and that is just what these "Outfitters" are. They don't care if tomorrow comes gamewise, the only thing that matters is the "fast buck" today.

With this attitude in mind I would like to request a change in the existing law. Require all non-residents to hire a registered guide with the exception of non-resident Military and relative guided hunts. Do not allow any more non-residents to come up here and hunt where they please without benefit of registered guide.

These people are a threat in many areas of the State as they come up and hunt areas where game is now in lessened supply. In the Interior residents see these people come up pulling their trailers loaded down with freezers, RVs and supplies they bought out-of-State and in these areas they are in conflict with resident hunters who are just trying to fill their own freezer. At least on a guided hunt these non-residents are usually not in conflict with residents as guides utilize the more inaccessible areas. Non-residents hunting on their own leave very little in the way of revenue in the State. The Game resource is worth money to the State and should be managed to see that the utmost dollar amount for each game head is realized. If the "Outfitter" is going to be allowed to continue then my son and I will cease to be guides as we cannot protect our guide area from the over-hunting that will occur and may as well become outfitters ourselves and join the club and rape the country.

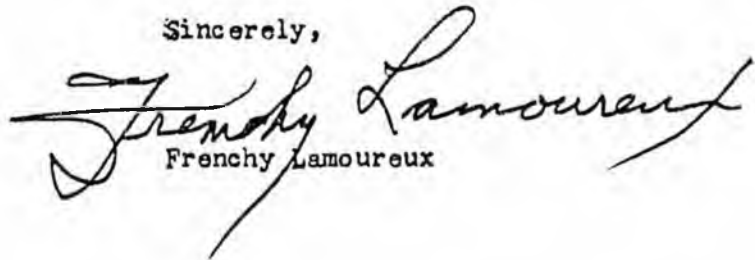
October 2, 1986
Page two

Most of these outfitters are "Out-of-State" operators and spend their winter months lining up people at Sportsman's clubs and shows. They offer a cut-rate trip for lesser money than is offered by the guide. The Guide maintains permanent camps, employs guides (in our case Native), pays insurance and property tax and thus has a higher overhead. Let's face it--if a person can afford to even consider an Alaskan hunt he can afford the going rate for a guided hunt.

The legality of such a law has already been tested in Wyoming so it should pose no problem as to being constitutional.

I realize you represent people of an area where I cannot vote but really the future of your area should be your concern and I ask you to please consider introducing legislation to put a stop to the practice of "Outfitters". I know that Fish and Wildlife would be among the first to champion this legislation as well as all the guides in Alaska. Please believe that Guides must be game conservationists if we aren't we'll be out of business.

Sincerely,


Frenchy Lamoureux

FL:ll

Darrell Farmen
12800 Ridgewood Rd.
Anchorage, Alaska 99516

March 25, 1987

Senate Resources Committee
Att: Chairman Jack Coghill

Dear Chairman Coghill:

This letter is written in support of S.B. 191. It is my opinion that this bill is an important piece of legislation protecting the stability of our wildlife resources and it should be passed as soon as possible.

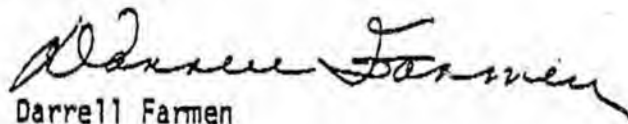
As a guide, licensed since 1960, I have seen what unlimited demands upon a limited wildlife resource can do. We have limited the number of guides and restricted the areas in which they may operate. This has enhanced a concern for wildlife species because it is now difficult for a guide to change areas.

By neglecting to regulate outfitters we have allowed a proliferation of demands upon big game species which the resource cannot absorb. Certain areas of the state are impacted to the degree that local residents are deeply concerned about the ability of certain species to maintain adequate numbers. It now appears that there are more outfitters than active guides.

In all fairness there are areas where the outfitters operation does not exist due to access problems or because they haven't found the areas. Once highly impacted areas cease to provide an adequate supply of animals the outfitter just moves to another area. Therefore, it is imperative to make restrictions apply statewide. Since there are no restrictions upon outfitters, mobility is very easy.

In closing, I urge the passage of S.B. 191. The well being of our big game species warrants the support of every Senate member.

Sincerely,


Darrell Farmen

Paul Reynolds
5530 South Tahiti Loop
Anchorage, Alaska 99507

March 25, 1987

Senate Resources Committee
Att: Chairman Jack Coghill

Dear Chairman Coghill:

This letter is in concern of Senate Bill 191. I am in total support of this bill. My main concern is the wildlife resource of the state. With no restrictions on the "outfitter" areas of the state are getting hit hard, which will result in a poor future for this resource. For this reason we must restrict the outfitter state wide.

Thank you for your time.

Sincerely,



Paul Reynolds



DICK GUNLOGSON

Master Guide and Outfitter

BOX 193
WILLOW, ALASKA 99688
TELEPHONE (907) 495-6434



March 26, 1987

Senator Jack Coghill
Senate Resources Committee
Pouch V
Juneau, AK 99811

Dear Senator Coghill:

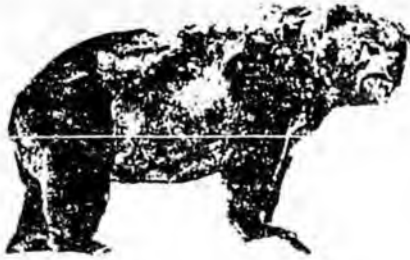
Let me thank you and your committee for recognizing the importance of, and need for, the legislation contained

I am a Master Guide and have been actively involved in Outfitting and Guiding in Alaska for 25 years. In just the last five years I have witnessed the rapid growth of a practice that poses the greatest threat of abuse to our wildlife resources of any that I have seen since Statehood. This is the unlicensed, unregulated so called "outfitter".

Lack of regulation in the 1960's and early 1970's led to the abuse of wildlife resources which was largely, and, to a large extent justifiably, laid at the feet of the Guiding Industry. The Guide Licensing and Control Board was created and through its efforts and the cooperation of the Guides themselves, the Industry was cleaned up. Areas were assigned and Licensed Guides became game managers, cooperating with Fish and Game people and Protection people to protect the resources they depended on for their livelihood. Licensed Alaskan Outfitter/Guides are now recognized throughout the world for their high ethical and fair chase standards. Those who could not, or would not, conform to these new standards were weeded out one by one.

Comes now then, through a monstrous loophole in our regulations, the unlicensed, unregulated, so called "outfitter". If some of these "outfitters" should turn out to be the same ones weeded out of the Guiding Industry for illegal and/or unethical activity it should hardly come as a surprise. Certainly it is not hard to see that it would be more convenient (and more profitable) to operate with virtually no regulations or licensing requirements, no ethical standards and no responsibility for the wildlife resources within any given area - compared to the highly regulated standards a Licensed Outfitter/Guide must adhere to.

Hunt **ALASKAN** *Big Game*



DICK GUNLOGSON

Master Guide and Outfitter

BOX 193
WILLOW, ALASKA 99688
TELEPHONE (907) 495-6434



Many of the unlicensed "outfitters" operating in Alaska are non-residents. They move large numbers of hunters into the State for short periods of time, come virtually self-contained and leave little or no revenue in the State for their passing. Solicitation of "outfitted" hunts in Alaska is openly, brazenly and aggressively being practiced at major sport shows in the south 48. Through clever and deceptive wording in advertising many or most hunters are led to believe they are arranging a hunt with a legitimate Licensed Outfitter/Guide, who is responsible to the State of Alaska for his conduct in the field.

Now, while it is true that these unlicensed "outfitters" pose a threat to legitimate Licensed Outfitter/Guides, the threat clearly does not end there. Since sheep and brown/grizzly bear hunting in Alaska requires that the hunter be accompanied by a Licensed Guide, the unlicensed "outfitters" focus their attention on the animals where a guide is not required. Moose and caribou are the heaviest hit species with black bear and goat victimized to a lesser degree. The net result is that SUBSISTENCE HUNTERS AND RESIDENT MEAT HUNTERS are going to be the most heavily impacted. Reports of a single unlicensed "outfitter" taking 30 or more moose from an area - and some taking more than twice that many caribou are definitely founded on more than campfire smoke!

The bottom line is that licensing and regulation are absolutely necessary when commercial exploitation of wildlife resources is taking place. The State regulates the Guide Industry for this reason, the individual hunter is regulated with season and bag limits, the salmon and herring resources are regulated by Permits. It is now time to plug the loophole the unlicensed and unregulated "outfitter" is using to abuse our wildlife resources. I am sure that future hunters, subsistence, resident and non-resident alike will join me in thanking you for your attention to this problem.

Respectfully yours,


Dick Gunlogson

Hunt **ALASKAN** *Big Game*



ALASKA TROPHY HUNTING AND FISHING

MAR 25 1987

MEL GILLIS
Registered Guide
& Outfitter

P. O. Box 22024,
Anchorage, Alaska 99522-0247
Phone (907) 344-8589
(907) 344-8589



3-25-87

Senator Jack Coghill
Chairman of the Senate
Resource Committee

Dear Chairman Coghill:

~~of the bill...~~

~~...~~ This bill addresses the defination
of Big game Guiding & Prohibiting compensation of an
unlicensed person for guiding. I request you to pass
this legislation as quickly as possible for the
stability of Alaska's Wildlife resources in the State.

We need this bill passed to stop the Unlicensed
Guides (outfitters) from operating in the State of
Alaska.

The unlicensed guides (outfitters) in the State of
Alaska are not regulated by or responsible to any
Agency or Agency in the state. Unlicensed guides (outfitters)
take as many animals as they want, Kill out small
pockets of animals & move to other parts of the state.
When they have the animals slaughtered from one area,
they are free to move to another & repeat the process.

There are over 300 known outfitters (unlicensed guides)



ALASKA TROPHY HUNTING AND FISHING

MEL GILLIS
Registered Guide
& Outfitter

P. O. Box 220247
Anchorage, Alaska 99522-0247
Phone (907) 344-8589



operating in the state + many more that are not even known about. Many of these people are not Alaskan residents. Fish + Wildlife protection estimates that about 50% of the (unlicensed guides/outfitters) are Non Residents.

The (unlicensed guides) operate on large volume of hunters + low-prices causing Overharvesting.

Many of the unlicensed guides bring their work force up with them from the lower 48.

An example of overharvest by an outfitter (unlicensed guide) is: I took two moose in one of my guide areas last year. I figure resident hunters 4 to 6 moose. A unlicensed guide took between 35 + 40 moose hunters in this area. This is going on over the entire state of Alaska the wildlife cannot take this kind of pressure.

Many of the Non-Resident hunters believe they are going on a legal hunt with licensed guides because of the way national guides are advertising in the lower 48. Outfitters in the lower 48 are the same as Reg. guides are in Alaska. Everyone thinks



ALASKA TROPHY HUNTING AND FISHING

MEL GILLIS
Registered Guide
& Outfitter

P. O. Box 220247
Anchorage, Alaska 99522-0247
Phone (907) 344-8589
(907) 344-8589



the term guide & outfitter is one in the same.

The guiding profession in the state of Alaska is open to anyone who meets the requirements which are

1. Be a resident of the state
2. Serve a 3 year apprenticeship
3. Pass a written & Oral test given by the guide licensing & control board.

There are guide areas coming up at every guide board meeting.

By examining the guide register you will find that there are many guides in rural Alaska.

Guiding was the 7th largest industry in the state & is not subsidized by any state or federal program, and will be a viable industry from now on, if handled right.

In closing I would like to say that the Wildlife is a renewable resource, and should be handled as such. Senate Bill 191 will help stop the wholesale slaughter of big game animals. I have enclosed copies of a few motions for your information.

Sincerely
Mel Gillis

cc Senators Jiaroff, Ginter, Brumby, Sturgis, Lewski Jones, Ellason, P...
alond