

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672  
5017 HRES SB 191 (FILE 2) - SB 196

589

Several methods of achieving the above goals in actual legislative amendment language were discussed. "Conceptual" amendments are being circulated among the parties to attempt to find common ground where possible.

The confusion with the term "outfitter" was discussed. All agreed that all guides are outfitters, in that they provide some or all of the following: Transportation, pre-hunt correspondence, tents, cabins, camping equipment, food, etc., in addition to personal services in the camps and in the field. Likewise, it was agreed that many transporters, gear providers or "outfitters" don't want to guide, per se, and don't want to provide personal field services.

Since all agreed that licensing requirements were essential, an amendment is being proposed that in essence would create a new licensed class of hunting services provider, and would clarify guide/outfitter as one class, and transporter or transporter/outfitter [NO agreement on the actual names] as another class. This concept would basically reinstate the transporter license which was dropped from the statutes three years ago.

Another amendment is being circulated that would change the makeup of the board (currently 4 public members, 3 guides) to an equal representation of guides and transporter/outfitters. This new board would be empowered to regulate the various "transporter", "provider", and "outfitter" services of all who provide hunter services. This proposal would allow the various providers to help formulate and draft regulations applicable to their particular "degree of service" under the jurisdiction of a board of their peers and the public without creating new and additional boards and the additional conflicting and overlapping responsibilities that would create.

Additional areas of possible solutions to the protection problem of proving that certain types of employees "in the field" are not engaged in guiding activities, such as special permits for occasional photographic accompaniment or special cases where a "white water" oarsman is necessary on a float trip, were discussed, and will continue to be explored.

All present recognized the seriousness of the current problem, and desire some legislative solution. Discussion arose concerning the timeliness of solutions, in that the primary booking season of February, March and April is about to begin.

APHA representatives pointed out the importance not only of having legislative solutions in place by mid-summer 1988, but of taking action early to ensure clarification of state law prior to winter commitments to the best degree possible.

In summary, everyone recognizes that there are and will likely continue to be areas of disagreement. Likewise, there appears to be some common ground. Attempts will continue to be made to pinpoint those areas of agreement and work with the Legislature as they take action on pending and/or proposed legislation.

This report was drafted by Senator Ken Fanning, and has been circulated to the officers of both organizations for corrections, deletions, or additions. It is only intended to be a fair and accurate report of the meeting that took place on January 7.

ADDENDUM:

Upon circulation of this report to the various representatives of Alaska Professional Hunters Association and Alaska Outfitters Association, all agreed that it accurately reflected what took place at the meeting.

# Alaska State Legislature

SENATOR KEN FANNING  
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## Senate

### MEMORANDUM

To: Senators Coghill, Halford and Eliason  
Representatives Herrmann, Adams and Grussendorf

From: Senator Ken Fanning *KF*

Date: January 14, 1988

RE: Report of meeting between guides and outfitters

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I want to take the opportunity to give you a preview of the attached report which I will be distributing to members of the House and Senate Resources Committees tomorrow. The report is of a recent meeting between representatives of the guides and outfitters.

As you are aware, SB 191, the guide bill, is back in Senate Resources Committee for additional hearings and possible changes.

I just wanted to keep you abreast of these new developments. If you have questions regarding the meeting or the bill itself, please contact Senator Coghill or his committee aide, Elizabeth Ziegler, or myself or my staff person, John Manly.

*Finlayson Walker*

BEAR PAW OUTFITTERS, INC.

Contract for Transportation and  
Notice of Risk

Bear Paw Outfitters, Inc. is a corporation whose principal business is the outfitting and transportation of photographers, fishermen, hunters, campers, adventurers and other outdoorsmen. Transportation is into scenic remote wilderness areas of Alaska. Camping accommodations and outfitting are available upon request.

Let it be known to all interested parties who enter in and upon and sign this contract, hereby acknowledge that Bear Paw Outfitters, Inc. is not acting as guides for hunting, but transporters of persons, equipment, and related paraphernalia.

By contracting for transportation services with Bear Paw Outfitters, Inc., the Outdoorsman is accepting risks not normally associated with public transportation services. The Outdoorsman's signature on this contract is his acknowledgement that he understands and accepts the risks associated with travel in remote areas. These risks include, but are not limited to fire, flood, wild animal attacks, avalanche, severe weather conditions (including flash floods, blizzards, snow, rain, and wind), treacherous currents, sweepers, floating logs, unseen obstructions, discharge of firearms and other hazards associated with remote travel.

It is the Outdoorsmen's responsibility to inform Bear Paw Outfitters, Inc. of any physical or mental illness he or she may have which may make an extended time in the "bush" a hazard. Bear Paw Outfitters, Inc. expressly disclaims liability for any personal injury or property damage incurred as a result of transportation or other services provided, and the Outdoorsman expressly waives any claim for liability against Bear Paw Outfitters, Inc.

To reserve services, Bear Paw Outfitters, Inc., requires a 30 percent deposit. The entire deposit is refundable upon a 60 day advance notice, but is otherwise non-refundable. Total payment is required prior to rendering of service.



## COMMERCIAL HUNTING SERVICES

This is a concept paper. It is not designed to address every issue or answer every question, but rather to see if there are general concepts that can be agreed on that will help with the passage of a commercial hunting services bill this session.

- I. Licensed providers of transportation would not be affected by this bill unless:
  - A. they are advertising services or transportation specially for hunters, or
  - B. providing services for hunters beyond transportation (providing or renting gear, campsites, etc.)
- II. Others providing commercial services to hunters would have to be licensed by Board in one of two main categories, Guides/Master Outfitters or Transporter/Outfitters
  - A. Nonresidents hunting any big game in Alaska (bear, sheep, goats, muskox, bison, moose, caribou, deer, others?) would be required to have services of licensed contractor.
    1. Except each Alaska resident hunter could take up to 2, 3?, friends hunting without compensation.

2. Guides would be required for nonresidents to hunt Brown Bear, Sheep, or Goats.
  - a) Except for nonresidents hunting with resident hunter who is kindred in the second degree.
- B. Guides/Master Outfitters and Transporter/Outfitters would both be required to file reports on all contracts and all game taken.
- C. Both would be required to pay head fees on all game taken by clients.
  1. Head fees would be graduated and cumulative, designed to penalize abuse of resource and economically establish a maximum take.
  2. Head fees would be set annually by Board of Game based abundance or scarcity of game.
    - a) could vary by game unit or sub unit.
    - b) would be cumulative from one unit to another.



III. Transporter/Outfitters would be allowed to provide transportation (including air, horse, boat, backpacking, etc.), gear, campsites, and general hunting advice, butchering and packing.

A. Transporter/outfitters are not allowed in the field prior to an animal being killed, except to render assistance in a life (human!) threatening emergency.

1. Transporter contracts would be required to advise clients that if a transporter or employee is in the field with the client, the transporter is criminally liable and the client would also be subject to a large civil fine (\$1,500?).

B. Would be allowed to provide a person in the camp, not in the field, at legally established lodges and cabins, boats with living quarters, and at camps not serviced by air (i.e. camps reached by horse, boats, backpacking, or other ground or water transportation.)

C. Would not be allowed to have person in field or camp if camp reached or serviced by air.

D. If transporters provide air transportation with their own planes, they would be required to meet same safety, insurance, etc., requirements as Part 135 Air Taxi operators.

- IV. Guides would be able to provide the full range of guiding services for all Alaska game.
  - A. Guides would be able to guide only in exclusive or joint use guide areas assigned to them.
  - B. If guides had a transporter license, they could also provide transporter service under the same conditions as a transporter.
  
- V. Miscellaneous provisions
  - A. Board may investigate guide or transporter after one complaint.
  - B. Either add provisions to make prohibition against sale of exclusive guide areas enforceable or legalize the sale of guide areas.

Original sponsors: Coghill and Faiks

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IN THE SENATE

BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 191 (3d Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Guide Board and big game guiding, transporting, outfitting, and hunting; establishing a task force on guiding and the commercial taking of game; and providing for an effective date."

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

\* Section 1. AS 08.03.010(c)(20) is amended to read:

(20) Guide Board (AS 08.54.010) -- June 30, 1990 [1988].

\* Sec. 2. AS 08.54.010 is amended to read:

Sec. 08.54.010. CREATION AND MEMBERSHIP OF BOARD. For the purposes of licensing and regulating the activities of guides and transporters in the interest of the state's wildlife resources there is created the Guide Board consisting of seven members. No more than three members of the board shall hold or have held a registered, master, or class A assistant guide license. The other members must have a general knowledge of the game resources of the state and may not have a vested interest in the guiding industry. A minimum of 10 years residence in the state is required for all members of the board. For administrative purposes, the board is in the Department of Commerce and Economic Development.

~~\* Sec. 3. AS 08.54.140 is amended to read:~~

~~Sec. 08.54.140. QUALIFICATIONS FOR ASSISTANT GUIDE LICENSE. A person is entitled to be licensed as an assistant guide if the person  
(1) is 19 years of age or more;~~

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~~(2) [REPEALED~~

~~(3)] is favorably recommended to the board, in writing, by a registered guide;~~

~~(3) [(4)] meets additional qualifications which the board may require;~~

~~(4) [(5)] is in sound physical condition; and~~

~~(5) is familiar with the terrain and transportation problems in the district for which the license is requested.~~

*Jim Duncan  
Fred Ziegler  
Loren White*

*John*

\* Sec. 4. AS 08.54 is amended by adding new sections to read:

Sec. 08.54.142. TRANSPORTER LICENSE. (a) A person may not engage in the business of transporting unless the person is licensed as a transporter under this chapter.

(b) A person may be licensed as a transporter if the person

(1) pays the annual license fee required under AS 08.54.-170(a);

(2) holds a current Alaska business license to do business as a transporter; and

(3) has not had a guide license revoked by the board.

Sec. 08.54.143. EXEMPTIONS FROM TRANSPORTER LICENSE REQUIREMENT.

(a) A person, other than a licensed guide, who provides air transportation to big game hunters for compensation is exempt from the license requirements for transporters under this chapter unless the person

(1) derives more than 50 percent of gross income as an air carrier from transporting big game hunters or their equipment or game to or from the field; or

(2) provides big game hunting services in addition to air transportation.

(b) A licensed guide who provides transportation services only in the restricted guide area assigned to the guide or the guide's

1 employer is exempt from the license requirements for transporters  
2 under this chapter.

3 Sec. 08.54.144. LIMITATIONS ON TRANSPORTERS. (a) A person  
4 required to be licensed as a transporter under this chapter may not  
5 accompany or be present with a big game hunter in the field for com-  
6 pensation or with an intent or an agreement to receive compensation  
7 except under the following circumstances:

8 (1) to drop off or pick up the hunter or the hunter's  
9 equipment or game;

10 (2) to provide assistance to another person whose health or  
11 safety is threatened;

12 (3) if prevented from leaving the field by mechanical  
13 failure of a vehicle, an accident, weather, or an act of God;

14 (4) to provide cooking or other personal services to the  
15 hunter at a camp not serviced by aircraft, motorized watercraft, or  
16 other motorized vehicle, as long as the services do not include spot-  
17 ting, stalking, pursuing, tracking, killing, or attempting to kill big  
18 game or meat packing;

19 (5) in a boat with living quarters;

20 (6) at a lawfully established cabin or permanent lodge.

21 (b) Advertising for transporting services must state, if appli-  
22 cable, that the transporter is not a licensed big game guide or out-  
23 fitter and is not authorized by law to provide a guided hunt in the  
24 state. A copy or sample of the advertising shall be submitted to the  
25 board, as provided in regulations of the board.

26 Sec. 08.54.145. CONTRACTS FOR GUIDING AND TRANSPORTING. A  
27 person required to be licensed as a master or registered guide or as a  
28 transporter under this chapter may provide services only by written  
29 contract. The contract must contain the text of AS 08.54.210. A copy

1 of each contract shall be submitted to the Department of Commerce and  
2 Economic Development not later than 30 days after the contract is  
3 signed or the services are provided, whichever occurs first. The  
4 department shall forward a copy of each contract to the Department of  
5 Fish and Game and to the Department of Public Safety, division of fish  
6 and wildlife protection.

7 \* Sec. 5. AS 08.54.150 is repealed and reenacted to read:

8       Sec. 08.54.150. RESPONSIBILITY OF REGISTERED OR MASTER GUIDE OR  
9 TRANSPORTER FOR VIOLATIONS. A registered or master guide contracting  
10 for a hunt, or a transporter contracting to transport a big game  
11 hunter, is equally responsible under AS 08.54.200 for a violation of a  
12 federal or state sport fish, game, guide, or transporter statute or  
13 regulation committed by an employee of the guide or transporter,  
14 respectively, if

15               (1) the employee is licensed or required to be licensed  
16 under this chapter; and

17               (2) the violation was committed in the course of the em-  
18 ployment.

19 \* Sec. 6. AS 08.54.170(a) is amended to read:

20       (a) The Department of Commerce and Economic Development shall  
21 set license fees under AS 08.01.065 for each of the following:

22               (1) master guide;

23               (2) registered guide;

24               (3) class A assistant guide;

25               (4) assistant guide;

26               (5) special guide;

27               (6) transporter.

28 \* Sec. 7. AS 08.54.200(a) is repealed and reenacted to read:

29       (a) The board shall hold a hearing to determine whether a

1 licensee should be disciplined within a reasonable time after (1) a  
2 complaint concerning a licensee's guiding or transporting activities  
3 is filed with the board by a client of the licensee; (2) a complaint  
4 concerning a licensee's conduct during a life-threatening situation  
5 while guiding or transporting is filed with the board; or (3) a li-  
6 censee has been convicted of a violation of a federal or state game,  
7 guiding, or transporting statute or regulation.

8 \* Sec. 8. AS 08.54.200(b) is amended to read:

9 (b) After a hearing, the board may revoke, suspend, or deny  
10 renewal of a license, and may withdraw a licensee's restricted guide  
11 area assignment, if the board finds that the licensee

12 (1) engaged in unethical activity, unsafe activity, or  
13 activity that adversely affects the natural resources of the state  
14 when the activity is related to the purposes of the contract hunt or  
15 contracted transportation; or

16 (2) violated a provision of a federal or state game, guid-  
17 ing, or transporting [GUIDE] statute or regulation.

18 \* Sec. 9. AS 08.54.200(d) is amended to read:

19 (d) A person who is disciplined under this section may not  
20 engage in a guiding or transporting activity during the period of  
21 license revocation or disciplinary action. A person licensed under  
22 this chapter may not hire as a guide or transporter a person whose  
23 [GUIDE] license is suspended or revoked under this section. A person  
24 [GUIDE] whose license is suspended or revoked may not guide or trans-  
25 port in the employ of a person licensed under this chapter.

26 \* Sec. 10. AS 08.54.200(f) is amended to read:

27 (f) If a certified copy of a judgment of conviction of a li-  
28 censee [GUIDE] for an offense described under (c)(3) of this section,  
29 or for each of two offenses under (c)(4) of this section, is filed



1 with the board, the board shall immediately suspend the licensee's  
2 [GUIDE'S] license. The suspension may be ordered even if the con-  
3 viction resulted from a plea of nolo contendere or if the conviction  
4 is under appeal. The order remains in effect until after the final  
5 disposition of the disciplinary proceeding under this section.

6 \* Sec. 11. AS 08.54.200(g) is amended to read:

7 (g) A certified copy of a judgment of conviction of a licensee  
8 [GUIDE] for an offense is conclusive evidence of the commission of  
9 that offense in a disciplinary proceeding instituted against the  
10 licensee [GUIDE] under this section based on that conviction.

11 \* Sec. 12. AS 08.54.210 is amended to read:

12 Sec. 08.54.210, UNLAWFUL ACTS, (a) It is unlawful for

13 (1) a guide or a transporter [MASTER GUIDE, REGISTERED  
14 GUIDE, SPECIAL GUIDE, CLASS-A ASSISTANT GUIDE, OR ASSISTANT GUIDE] to  
15 fail to promptly [TIMELY] report to the Department of Public Safety,  
16 division of fish and wildlife protection, and in no event later than  
17 30 days, a violation of a state fish, game, [OR] guiding, or trans-  
18 porting statute or regulation that the guide or transporter reasonably  
19 believes was committed by a client or an employee of the guide or  
20 transporter, respectively;

21 (2) a guide or transporter to commit or aid the commission  
22 of a violation of this chapter or of a state game, [OR] guiding, or  
23 transporting statute or regulation, or for a guide or transporter  
24 to permit the commission of a violation that the guide or transporter  
25 [KNOWS OR] reasonably believes is being or will be committed without  
26 attempting to prevent it, short of using force, and without reporting  
27 it;

28 (3) a person to guide without [HAVING] a current valid  
29 guide license and [RESIDENT] hunting license in actual possession;



1 (4) a person to advertise as or represent to be a guide  
2 without holding a current valid registered or master guide license;

3 (5) a person who offers big game hunting services, includ-  
4 ing transportation, for compensation to advertise as or represent to  
5 be an outfitter with respect to the services without holding a current  
6 valid registered or master guide license;

7 (6) a guide or transporter to intentionally obstruct or  
8 hinder or attempt to obstruct or hinder lawful hunting engaged in by a  
9 person who is not a client of the guide or transporter, respectively;

10 (7) a person to violate AS 08.54.235;

11 (8) [(6)] a person to guide without being validly licensed as  
12 a guide under this chapter and as a [RESIDENT] hunter under AS 16, or  
13 to engage in the business of transporting in violation of AS 08.54.-  
14 142;

15 (9) [(7)] an assistant guide to contract to conduct a  
16 guided hunt;

17 (10) [(8)] an assistant guide to be in the field on a  
18 guided hunt except while employed and supervised by a registered or  
19 master guide;

20 (11) a person to provide transportation for which a license  
21 is required under AS 08.54.142 if the transportation is in an aircraft  
22 for which the <sup>operator</sup>~~person~~ does not hold a current valid air taxi/commercial  
23 operator (ATCO) operating certificate issued by the Federal Aviation  
24 Administration;

25 (12) a guide to provide transportation to a client in the  
26 restricted guide area assigned to the guide or the guide's employer if  
27 the transportation is in an aircraft

28 (A) for which the <sup>operator</sup>~~guide~~ does not hold a current valid  
29 air taxi/commercial operator (ATCO) operating certificate issued

1 by the Federal Aviation Administration; or

2 (B) owned by the guide and the airplane is not  
3 operated under the provisions of 14 CFR Part 91.

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5 (13) a person to be accompanied during a big game hunt by an  
6 individual who is guiding the person in violation of (8) of this  
7 subsection.

8 (b) A person who violates (a)(1) - (7) [(a)(1) - (5)] of this  
9 section is guilty of a misdemeanor and upon conviction is punishable  
10 by a fine of not more than \$2,000 [\$1,000] or by imprisonment for not  
11 more than one year, or by both, and the person's license may be re-  
12 voked for a period up to five years. However, a person who engages in  
13 guiding or transporting [ACTIVITY] during the period for which the  
14 person's license is suspended or revoked under this chapter, or who  
15 violates (a)(8) - (10) [(a)(6) - (8)] of this section, is guilty of a  
16 felony punishable, upon conviction, by a fine of not more than \$5,000  
17 and by imprisonment for not less than one year nor more than three  
18 years. In addition to punishment for a felony, all guns, fishing  
19 tackle, boats, aircraft, automobiles or other vehicles, camping gear  
20 and other equipment and paraphernalia used in, or in aid of, guiding  
21 or transporting [ACTIVITY] engaged in during the period of suspension  
22 or revocation, or used during a violation of (a)(8) of this section.  
23 may be seized by persons authorized to enforce this chapter and may be  
24 forfeited to the state as provided under AS 16.05.195. A person who  
25 violates (a)(11) or (12) of this section is guilty of a class B misde-  
26 meanor and upon conviction is punishable by a fine of not less than  
27 \$500 nor more than \$1,000. A person who violates (a)(13) of this  
28 section is subject to a civil fine of not more than \$1,500.

29 \* Sec. 13. AS 08.54.230 is amended to read:

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Sec. 08.54.230. RECORDS OF GUIDED HUNTS. The Department of Commerce and Economic Development shall collect and maintain records of hunts conducted by guides. The department shall send a copy of records pertaining to each hunt to the Department of Fish and Game and to the Department of Public Safety, division of fish and wildlife protection, and shall make the records available to other state and federal agencies charged with the enforcement of statutes and regulations relating to guiding or game if requested for enforcement purposes. For all other purposes, the records are confidential and are not subject to inspection or copying under AS 09.25.110 - 09.25.121.

\* Sec. 14. AS 08.54 is amended by adding a new section to read:

Sec. 08.54.235, TRANSPORTER REPORT. <sup>person required to be licensed</sup> (a) A transporter shall record on report forms provided by the Department of Commerce and Economic Development the following information:

- (1) the names and addresses of all persons transported;
- (2) the numbers from the Alaska hunting license and big game tags possessed by each person transported;
- (3) the date of transporting; ~~and~~
- (4) the game taken; and
- (5) if known, the locality where the game was taken.

<sup>person required to be licensed as a</sup> (b) A transporter shall have in actual possession, while providing transportation, a report required under this section. The transporter shall enter the information required under (a) of this section as soon as it is available.

(c) The report shall be submitted to the Department of Commerce and Economic Development within 21 days after providing the transportation. The department shall send a copy of each report to the Department of Fish and Game and the Department of Public Safety, division of fish and wildlife protection.

1 (d) This section does not apply to transportation provided by a  
2 guide for which a statement of financial remuneration (S&R) is submit-  
3 ted to the Department of Commerce and Economic Development, as re-  
4 quired under regulations of the board.

5 \* Sec. 15. AS 08.54.240(3) is repealed and reenacted to read:

6 (3) "guide" or "guiding" means accompanying or being pre-  
7 sent with, or providing a camp or personal service for, a big game  
8 hunter in the field, personally or through an assistant, for compen-  
9 sation or with the intent or an agreement to receive compensation;  
10 "guide" or "guiding" does not include the lawful activities of a  
11 licensed transporter under AS 08.54.144(a).

12 (See Page 3, lines 3 - 20)

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18 \* Sec. 16. AS 08.54.240 is amended by adding new paragraphs to read:

19 (7) "compensation" means any money, thing of value, or  
20 economic benefit conferred on or received by a person in return for  
21 services rendered or to be rendered by the person for another;

22 (8) "transport" or "transporting" means, for compensation  
23 or with the intent or an agreement to receive compensation,

24 (A) conveying an individual to or from the field for  
25 the purpose of taking big game;

26 (B) conveying from the field meat or parts from the  
27 big game that the individual has taken; or

28 (C) in conjunction with conveying a big game hunter,  
29

1 providing

2 (i) hunting or camping gear;

3 (ii) a campsite; or

4 (iii) general hunting advice.

7 \* Sec. <sup>17</sup>~~18~~. TASK FORCE ON GUIDING AND GAME. (a) The interim task force  
8 on the Guide Board and the commercial taking of big game is established  
9 under the jurisdiction of the Legislative Council. The task force consists  
10 of the commissioners of fish and game, commerce and economic development,  
11 and public safety, or their designees; two members of the senate appointed  
12 by the president of the senate; two members of the house of representatives  
13 appointed by the speaker of the house; and three members appointed by the  
14 governor as follows: one member of the Guide Board; one big game guide  
15 licensed under AS 08.54 who is not a member of the Guide Board; and one  
16 person engaged in a business, other than guiding, that includes transport-  
17 ing big game hunters to and from the field.

18 (b) The task force shall review the operations of the Guide Board and  
19 shall study problems and issues concerning the commercial taking of big  
20 game in the state and the businesses or professions that provide goods and  
21 services to big game hunters in the state. The task force shall submit to  
22 the Legislative Council, not later than January 15, 1989, a report on its  
23 findings and proposed legislation to address the problems and issues  
24 covered in the report.

23 (c) The task force terminates February 1, 1989.

24 \* Sec. <sup>18</sup>~~19~~. Notwithstanding the provisions of AS 08.54.210, amended by  
25 sec. 12 of this Act, the operation of AS 08.54.210(a)(5), (11), and (12),  
26 as added by sec. 12 of this Act, is suspended until January 1, 1989.

27 \* Sec. <sup>19</sup>~~20~~. Sections 1 - 3, 5 - 13, 15 - 17, and 19 of this Act take  
28 effect immediately under AS 01.10.070(c).

29 \* Sec. <sup>20</sup>~~21~~. Section 18 of this Act takes effect June 1, 1988.

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\* Sec. 22. Sections 4 and 14 of this Act take effect January 1, 1989.

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# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

P. O. BOX D  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-2534

DATE: April 10, 1987  
TO: Guide Board  
FROM: ~~Kevin D. Henderson~~ Kevin D. Henderson  
Regulations Specialist  
SUBJECT: Guide Area Quotas and Point System

One of the next major projects which the Guide Board will have to do will be bringing the existing guide regulations into line with statute revisions implemented by the Legislature last year through Senate Bill 294. That legislation made the following two revisions to guide law which must be addressed:

1. the board's authority to establish a quota of guides operating in a specific area, AS 08.54.040(a)(7), was amended to require that the board establish such a quota by an "equitable, reasonable, and consistent procedure . . . ."; and
2. AS 08.54.195 was added as a new statute that says the board shall "establish uniform and consistent criteria including a point system to be used by the board when it establishes and assigns a restricted guide area."

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4. In order to really make this new procedure work, all regulations from 12 AAC 38.051 through 12 AAC 38.057 will need to be rewritten. This will be an excellent time to remove the ambiguity these sections now contain.
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6. Is it feasible for the board to establish a quota for the number of guides in a specific area and actually place that quota number in regulation? In other words, how often will the board need to adjust the quota for a guide area because of variables like moving game population.

I would appreciate your input into these concerns and questions. I am not meaning to confuse the issue. What I do want to communicate is that these statute changes mean major and significant changes need to be made in regulations and past board procedure. We will have to work together to draft regulations that work.



With your responses and whatever other help you can provide, I will attempt to draft regulations for the board to review between meetings. If appropriate, we may go ahead with public notice so that the board can conduct hearings at the next meeting.

Thank you for your cooperation and assistance.

KDH/dg17881D  
041087a  
Attachment

cc: Helen Welch, Licensing Examiner

Stan Frost

for Kevin Henderson

PURPOSED POINT SYSTEM FOR GUIDES

SINCE THE BEGINNING OF THE EXCLUSIVE GUIDE AREA CONCEPT, IT HAS BECOME CLEAR TO MANY OF US IN THE GUIDING INDUSTRY OF THE NEED FOR A FAIR AND HONEST WAY TO REASSIGN OPEN AREAS (AREAS WHICH HAVE REVERTED BACK TO THE BOARD) TO THOSE WHO ARE MOST QUALIFIED.

I WOULD LIKE TO THROW OUT A FEW IDEAS FOR THE CONSIDERATION OF THE GUIDE BOARD AND THE GUIDING INDUSTRY.

I BELIEVE THE INTENT OF THE GUIDE AREA CONCEPT, WAS TO UPGRADE THE GUIDING PROFESSION BY MAKING US MORE PROFESSIONAL, BY PRACTICING SOME CONSERVATION IN OUR AREAS AND NOT OVERBOOKING. WHAT, MAKES A TRUE PROFESSIONAL IN ANY PROFESSION ? IT SEEMS HE WOULD BE SOMEONE WHO SPENT MANY YEARS LEARNING HIS TRADE. THIS GETS US DOWN TO THE REASONING BEHIND THIS PURPOSED POINT SYSTEM, THOSE WHO SPEND A GREAT DEAL OF TIME IN THE FIELD CONDUCTING GUIDED HUNTS, ARE GOING TO BE LEARNING A GREAT DEAL MORE ABOUT GUIDING, THEN THOSE WHO SPEND VERY LITTLE TIME.

NATURALLY THERE IS A LOT MORE TO BEING A GUIDE/OUTFITTER THEN SPENDING TIME IN THE FIELD, BUT TIME IN THE FIELD, CONDUCTING GUIDED HUNTS, CONTRIBUTES MORE TO THE LEARNING PROSESS ABOUT GUIDING THEN ANY OTHER METHOD, FOR BOTH REGISTERED AND ASSISANT GUIDES, AND CAN BE DOCUMENTED BY THE FINANCIAL REMUNERATION STATEMENT.

THE OBJECT OF THIS POINT SYSTEM IS TO COME UP WITH A SIMPLE WAY OF GIVING DUE CREDIT TO THOSE DEDICATED TO THE GUIDING PROFESSION AND HAVE THEM PUT IN THE TIME TO BECOME TRUE PROFESSIONALS. BY GIVING POINTS TO THE ASSISTANT GUIDE IT WILL PROVIDE AN INCENTIVE TO BE MORE ACTIVE IN GUIDING, AND PASS HIS REGISTERED GUIDE TEST, AS EACH STEP INCREASES HIS POINT TOTAL, WHICH PUTS HIM HIGHER ON THE LIST FOR THE NEXT OPEN AREA.

YOUR COMMENTS WOULD BE APPRECIATED, DROP ME A LINE.

STAN FROST

## POINTS

1. MASTER GUIDE 6 points per year license issued and used
2. REGISTERED GUIDE 5 points per year license issued and used
3. ASSISTANT GUIDE 2 points per year license issued and used  
( note, issued and used, could mean, he conducted at least 3 or 4 hunts per year. )

### JUSTIFICATION

The number of points allowed is not the important question, but only that everyone is treated the same, and each step up the ladder makes them more qualified. When I say issued and used it just seems to me that a guide who actively conducts hunts each year, should have an advantage over one who just pays for his license. Only in that manner can the Alaskan Guide be upgraded to a true Professional. Would a Reg. guide who can-not book any hunts need an area ???

4. DAYS IN THE FIELD CONDUCTING GUIDED HUNTS  
1 point per day in each year that the Reg. or Asst. Guide has been in the field conducting guided hunts in the last 10 years, divided by 10 (note, divided by 10 to keep the numbers down, and give an average per year.)

### JUSTIFICATION

The more time a man spends doing a job, the more proficient he should become. Give him credit for this. Many Assistant guides will benefit from this as some spend the total season on hunts. (To cover the possibility of accident or sickness to the guide in any given year it might be well to consider allowing him his average point time in the field, to give him time to recover.) 10 years is used because many guides will have 3 or 4 years credit as an Asst. guide and 6 years as a Guide/Outfitter which is not an excessive amount of time to become a full professional.

This time in the field should not include setting up camp before or after the season but only the time when Clients are booked on a hunt. This time can be documented by the FRS.

5. REGISTERED GUIDES WITH NO ASSIGNED AREA  
10 points  
( note, Guides who have transfered areas to another Guide should not qualify for these points. )

### JUSTIFICATION

This gives guides with no area an advantage over those with an area, but they would still have to spend time in the field each year. It would appear that those who have transfered an area have given up their rights to an area and should not get this advantage.

Note; It may not be unreasonable to consider requiring a guide to spend some time in the field each year in order to retain his area. It would be a much better judge of the use an area than the present system.

INITIAL POINT APPLICATION

Name \_\_\_\_\_ Guide Lic.No \_\_\_\_\_ Date \_\_\_\_\_

- (1) I, as a Master Guide, have conducted guided hunts, as a Master Guide for \_\_\_\_\_ years X 6 points per year which equals \_\_\_\_\_ POINTS
- (2) I, as a Registered Guide have conducted guided hunts, as a Registered Guide for \_\_\_\_\_ years X 5 points per year equals \_\_\_\_\_ POINTS
- (3) I, as an Assistant Guide have conducted guided hunts, as an Assistant Guide for \_\_\_\_\_ years X 2 points which equals \_\_\_\_\_ POINTS

NOTE: Do not start with the year that you received your license, list only those years that you conducted hunts under your new license.

- (4) I have been personally present in the field conducting Guided Hunts for the following number of days over the last 10 years as a Master, Registered, or Assistant Guide.

<u>YEAR</u>	<u>NO DAYS</u>	<u>YEAR</u>	<u>NO DAYS</u>
19__	_____	19__	_____
19__	_____	19__	_____
19__	_____	19__	_____
19__	_____	19__	_____
19__	_____	19__	_____
TOTAL	_____	TOTAL	_____
COLUMN 1	_____ PLUS	COLUMN 2	_____ = _____
			DIVIDE by 10 equals _____ POINTS

- (5) I have no areas assigned to me, nor have I transferd any areas and hereby claim an additional 10 points \_\_\_\_\_ POINTS
- (6) I have not been convicted of any State or Federal Game laws in the last ten years and hereby claim an additional 30 points \_\_\_\_\_ POINTS

TOTAL NUMBER OF POINTS \_\_\_\_\_ POINTS

I hereby certify under the penalty of perjury that the above information is true and correct.

X \_\_\_\_\_ Applicant Date \_\_\_\_\_



RECEIVED MAR 11 1988

NOTICE OF PROPOSED CHANGE TO  
THE REGULATIONS OF THE GUIDE BOARD

Notice is hereby given that the Department of Commerce and Economic Development, Guide Board, under authority vested by AS 08.-54.040(a)(7) and 08.54.050, proposes to adopt a regulation in Title 12 of the Alaska Administrative Code dealing with guide area permits for game management unit 4 to implement AS 08.54.-040(a)(7) and 08.54.195 as follows:

12 AAC 38.295 is added to set a quota of guides who may hold a guiding area permit for game management unit 4. This proposal is similar to a regulation which was adopted by the Guide Board on May 1, 1986 but disapproved by the regulations attorney on July 20, 1987. That disapproval has been challenged in Juneau Superior Court by Karl Lane and Tarleton Smith v. Grace Berg Schaible No. 1JU-87-1949 CIV.

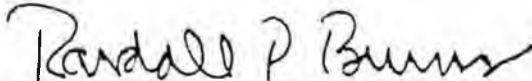
Notice is also given that any person interested may present written statements or arguments relevant to the action proposed by mailing them to Kevin Henderson, Regulations Specialist, Division of Occupational Licensing, P.O. Box D-LIC, Juneau, Alaska 99811, so that they are received no later than Thursday, April 7, 1988.

Notice is also given that written or oral statements or arguments relevant to the action proposed may be presented at a public hearing to be held Friday, April 8, 1988, from 3:00 p.m. to 4:30 p.m., at Centennial Hall, in Juneau, Alaska. This hearing will also be the public hearing required by AS 08.54.195(d) on whether it is in the public interest for the board to deny transfer or reassignment of the existing guide area permits for game management unit 4 until the number of permits is reduced to the quota level.

Copies of the proposed regulation may be obtained by writing to the above address or by telephoning 907-465-2535.

This action is not expected to require an increased appropriation.

The Guide Licensing and Control Board, upon its own motion or at the instance of any interested person, may, after the deadline stated above, adopt the proposal within the scope of this notice without further notice or may decide to take no action on it.

  
Randall Burns, Director  
Div. of Occupational Licensing  
Dept. of Commerce &  
Economic Development

DATE:

3/3/88

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

P. O. BOX D  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-2534

DATE: April 10, 1987  
TO: Guide Board  
FROM: ~~Kevin D. Henderson~~  
Regulations Specialist  
SUBJECT: Guide Area Quotas and Point System

One of the next major projects which the Guide Board will have to do will be bringing the existing guide regulations into line with statute revisions implemented by the Legislature last year through Senate Bill 294. That legislation made the following two revisions to guide law which must be addressed:

1. the board's authority to establish a quota of guides operating in a specific area, AS 08.54.040(a)(7), was amended to require that the board establish such a quota by an "equitable, reasonable, and consistent procedure . . . ."; and
2. AS 08.54.195 was added as a new statute that says the board shall "establish uniform and consistent criteria including a point system to be used by the board when it establishes and assigns a restricted guide area."

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5. I need some ideas from the board about an acceptable way to assign points to those who do not already have a guide area assignment. If points are to be awarded to guides who are actively guiding, the board needs to be very careful to assure that guides without assigned areas are not unfairly restricted from opportunity to conduct hunts either in open areas or in another guide's area.
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# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

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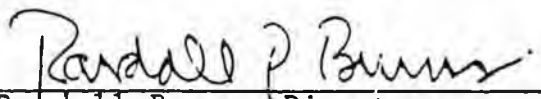
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Div. of Occupational Licensing  
Dept. of Commerce &  
Economic Development

DATE: 3/3/88

12 AAC 38 is amended by adding a new section to Article 2 to read:

12 AAC 39.295. QUOTA ON GUIDING AREA PERMITS FOR GAME MANAGEMENT UNIT 4. No application for initial issuance or for reassignment of a guiding area permit for game management unit 4, as defined in 5 AAC 78.005(d), will be considered by the board until normal attrition has reduced the number of guides holding guiding area permits for that game management unit to five. At that time, the board will, in its discretion, issue an additional guiding area permit for that game management unit, and the maximum number of guides authorized to hold guiding area permits for game management unit 4 shall be six. (Eff. / /88, Reg. )

Authority: AS 08.54.040(a)(7)

AS 08.54.195(d)

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

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

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Regulations Specialist  
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-3-

April 10, 1987

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## POINTS

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INITIAL POINT APPLICATION

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NOTE: Do not start with the year that you received your license, list only those years that you conducted hunts under your new license.

- (4) I have been personally present in the field conducting Guided Hunts for the following number of days over the last 10 years as a Master, Registered, or Assistant Guide.

<u>YEAR</u>	<u>NO DAYS</u>	<u>YEAR</u>	<u>NO DAYS</u>
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19__	_____	19__	_____
19__	_____	19__	_____
19__	_____	19__	_____
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SLA 1974; am §§ 16, 17 ch 206 SLA 1975; am § 1 ch 20 SLA 1976; am § 13 ch 151 SLA 1978; am § 4 ch 23 SLA 1983; am § 23 ch 132 SLA 1984)

Effect of amendments. — The 1984 word correction in the first sentence and amendment, in subsection (c), made a added the second sentence.

Sec. 16.05.940. Definitions. In AS 16.05 — AS 16.40

(1) "aquatic plant" means any species of plant, excluding the rushes, sedges and true grasses, growing in a marine aquatic or intertidal habitat;

(2) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature;

(3) "a board" means either the Board of Fisheries or the Board of Game;

(4) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(5) "commercial fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish, or other fish resources;

(6) "commissioner" means the commissioner of fish and game unless specifically provided otherwise;

(7) "department" means the Department of Fish and Game unless specifically provided otherwise;

(8) "domestic mammals" include musk oxen, bison, and reindeer, if they are lawfully owned;

(9) "domicile" means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game;

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Sectional Analysis of HB 183  
An Act relating to the provision of certain goods or services to hunters  
in the field  
by Representative Adelheid Herrmann

Section 1:\*

Section 1 makes it unlawful for anyone but a licensed guide to be compensated for providing camping equipment, vehicles, or personal services to a hunter or a hunting party while that hunter or hunting party is in the field.

Consistent with the current statute AS 08.54.240 (3), this section also clarifies that "in the field" does not refer to being present in a boat with living quarters, or being at a lodge or base camp.

Section 1 also makes it unlawful for a hunter to compensate anyone but a licensed guide to perform the services of a licensed guide.

\*This bill has only one section.

(10) "fish" means any species of aquatic finfish, invertebrate, or amphibian, in any stage of its life cycle, found in or introduced into the state, and includes any part of such aquatic finfish, invertebrate, or amphibian;

(11) "fish derby" means a contest in which prizes are awarded for catching fish;

(12) "fishery" means a specific administrative area in which a specific fishery resource is commercially taken with a specific type of gear; however, the Board of Fisheries may designate a fishery to include more than one specific administrative area, gear type, or fishery resource; in this paragraph "gear" and "type of gear" have the meanings given in AS 16.43.990;

(13) "fishing derby association" means a civic, service, or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(14) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water which is completely enclosed by a generally escape-proof barrier;

(15) "fish stock" means a species, subspecies, geographic grouping or other category of fish manageable as a unit;

(16) "fur dealing" means engaging in the business of buying, selling, or trading in animal skins, but does not include the sale of animal skins by a trapper or hunter who has legally taken the animal, or the purchase of animal skins by a person, other than a fur dealer, for the person's own use;

(17) "game" means any species of bird, reptile, and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of AS 16.05 — AS 16.40;

(18) "game population" means a group of game animals of a single species or subgroup manageable as a unit;

(19) "hunting" means the taking of game under AS 16.05 — AS 16.40 and the regulations adopted under those chapters;

(20) "nonresident" means a person who is not a resident of the state;

(21) "nonresident alien" means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;

(22) "operator" means the individual by law made responsible for the operation of the vessel;

(23) "personal use fishing" means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(24) "resident" means a person who for 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained a voting residence in the state; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this paragraph, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purposes of this paragraph, and a person who is an alien but who for one year has maintained a permanent place of abode in the state is a resident for the purposes of this paragraph;

(25) "rural area" means a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area;

(26) "seizure" means the actual or constructive taking or possession of real or personal property subject to seizure under AS 16.05 — AS 16.40 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(27) "sport fishing" means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(28) "subsistence fishing" means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources by a resident domiciled in a rural area of the state for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(29) "subsistence hunting" means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game;

(30) "subsistence uses" means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: (907) 466-2634

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/sa1444s  
122385b



The Legislature  
Budget and Audit Committee  
Jim Griffin, Auditor

DEC 19 1985

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 to allow time for soliciting biological information from the Fish & Game biologist located in the area involved. I have sold Fish & Game information in several cases that are coming before the GLCB this next meeting in December 1985.

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 (r) (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 a guide who is well qualified to guide in the area.

The GLCB has a policy not to issue a new applicant an area X 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 ~~XXXXXXXXXXXX~~ ..

Where the area is extremely large and doesn'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 applicant's practical field experience and knowledge of game habits, size and the area's being tested for. Most of this is impossible to determine with a ~~XX~~ 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 1 1/2 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 08.54.200 (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 §294.

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

It is very important to the guiding industry that the GLCB 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 185 will become instant guides creating an impossible situation for game populations and sportsmen safety.

An addition to recommendation #4.  
At this last GLCB 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 ~~are~~ all have an educational background.

Comments Regarding Interim Letter #1  
Sunset review GLCB

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 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 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.

-30-

These comments were made by James Harrower, member GLCB.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

P. O. BOX D  
JUNEAU, ALASKA 99811-0500  
PHONE: (907) 465-2534

DIVISION OF OCCUPATIONAL LICENSING

DATE: October 31, 1986  
TO: Guide Board members  
FROM: Kevin D. Henderson ~~\_\_\_\_\_~~  
Regulations Specialist  
SUBJECT: Department of Law review of proposed regulations

Attached is a memorandum from Lawrence Delay, Assistant Attorney General, and my response to that memo concerning the proposed regulations adopted by the board at your last meeting. The board had asked that they be given a chance to review the potential editing of the Attorney General's Office before they are permanently filed. Here is your opportunity.

I suggest that you review Mr. Delay's suggestions carefully and if you have any comment provide them in writing to me or Ray McNutt by November 17, 1986. Together, we can formulate the board's response and transmit it to Lawrence Delay. With your comments he can then complete his final review and get the regulations filed with the Lt. Governor's Office.

Your timely response to this opportunity will be very much appreciated.

KH/wfs4642W  
103086a  
Enclosures

cc: Helen Welch, Administrative Assistant ✓  
Lawrence Delay, Assistant Attorney General

# MEMORANDUM

# State of Alaska

TO Kathy Marshall, Director  
Division of Occupational Licensing

DATE October 23, 1986

FILE NO

TELEPHONE NO 276-3550

FROM Harold M. Brown  
Attorney General

SUBJECT Guide Licensing and  
Control Board pro-  
posed regulations;  
File No. 993-86-072

By:

*Lawrence C. Delay*  
Lawrence C. Delay  
Assistant Attorney General  
Commercial Section-Anchorage

We have reviewed the above-referenced proposed regulations and offer the following comments and suggestions for your consideration. Further work on these proposed regulations will await your response to the suggestions contained herein.

Proposed 12 AAC 38.052(d) reads as follows:

12 AAC 38.052(d) is amended to read:

(d) A copy of written permission required in (a) and (b) of this section must, at all times during the hunt, be on the person of the guide conducting the hunt or in the base camp from which the hunt is conducted, and must be on the person of each employee of the master or registered guide to whom the permission was given. Permission must be written on the statement of financial remuneration to be filed for that hunt. (Eff. 5/12/78, Reg. 66; am 10/11/81, Reg. 80; am 10/15/82, Reg. 84; am 6/16/85, Reg. 94; am \_\_/\_\_/\_\_, Reg. \_\_)

Authority: AS 08.54.040(a)  
AS 08.54.050

Comment: The proposed change seeks to provide for an organized method of preserving evidence of written permission in a manner which poses no significant additional burden upon the guide requesting permission.

Suggested Action: The only modifications suggested are to reword the last sentence of the proposed regulation and to

STATE OF ALASKA  
DEPARTMENT OF COMMERCE  
& ECONOMIC DEVELOPMENT

OCT 24 1986

DIVISION OF  
OCCUPATIONAL LICENSING



present the proposed draft in a form properly indicating the changes. The suggested modifications may be stated as follows:

(d) A copy of the written permission required in (a) and (b) of this section must, at all times during the hunt, be on the person of the guide conducting the hunt or in the base camp from which the hunt is conducted, and must be on the person of each employee of the master or registered guide to whom the permission was given. [A GUIDE RECEIVING WRITTEN PERMISSION SHALL FILE A COPY OF THAT PERMISSION WITH THE BOARD BY DECEMBER 31 OF THE YEAR IN WHICH THE PERMISSION IS GRANTED.] The written permission must be written upon the statement of financial remuneration filed with the hunt.

Proposed 12 AAC 38.054(g) reads as follows:

12 AAC 38.054 is amended by adding subsection (g) to read:

(g) The board may, consistent with AS 08.54.040 and 12 AAC 38.051, adjust a guiding area permit when reassigning that permit.

Comment: This subsection is consistent with the board's power under 12 AAC 38.054 and 12 AAC 38.051 and serves to clarify the board's power to reassign a permit as well as to adjust the boundaries of the guiding area and the number of permit holders in a specified area. However, the only concern with the proposed subsection is that it is not clear exactly what the board may adjust. We presume that the board may only adjust boundaries and the number of permit holders.

Suggested Action: The subsection may be rewritten, if consistent with the board's intent, to state:

When reassigning a permit, the board may, consistent with AS 08.54.040 and 12 AAC 38.051, adjust the boundaries of the area governed by the permit or adjust the number of guides who hold a permit to conduct guided hunts in that area.

Proposed 12 AAC 38.054(h) reads as follows:



12 AAC 38.054 is amended by adding subsection (h) to read :

(h) In game management units one through four, no initial application or application for reassignment will be considered by the board until such time as normal attrition has reduced the number of guides licensed to conduct hunts in those game management units to five. When the total number of guides licensed in units is five, the board will, in its discretion, approve an additional guide to be licensed in that unit. The maximum number of guides authorized to conduct hunts in game units one through four shall be six. (Eff. 5/12/78, Reg. 66; am. 10/15/82, Reg. 64; am. \_\_\_/\_\_\_/\_\_\_, Reg. \_\_\_)

Authority: AS 08.54.040(a)  
AS 08.54.050

Comment: The focus of attention on units one through four raises concerns of unequal treatment. The board is apparently concerned with protecting the livelihood of the permit holders of these units because of game population decline in the face of increased hunting by non-guided as well as guided hunters. If the board chooses to reduce the number of permit holders for this reason, the board may do so by denying new applicants by exercising its authority under 12 AAC 38.051(b)(2) and allowing the number of existing permit holders to be reduced by natural attrition. The proposed subsection is therefore unnecessary and in view of its unequal treatment aspect, likely to create more problems than it solves.

Suggested Action: This subsection should not be added to the regulations.

Proposed 12 AAC 58.056(g) reads as follows:

12 AAC 38.056 is amended by adding a new subsection to read:

(f) Before a matter will be heard by the board at a meeting, all area permit holders affected shall be contacted in writing by certified-return receipt mail by the applicant and the replies received shall be submitted to the board at that meeting. (Eff. 5/12/78, Reg. 66; am

6/16/80, Reg. 74; am 6/27/81, Reg. 78; am  
\_\_/\_\_/\_\_, Reg. \_\_)

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

Comment: This subsection will enable the board to determine whether certain interested parties have received notice of a petition filed under 12 AAC 38.056 and requires the burden of providing such notice to be placed upon the petitioner. The only change recommended here is a rewording which clarifies these points.

Suggested Action: The proposed subsection should be rewritten as follows:

Before the board will hear any petition or request brought under this section, the petitioner shall contact all permit holders affected by the petition by certified mail, return receipt requested, and the returned receipts or the replies of the affected permit holders shall be submitted to the board.

Proposed 12 AAC 38.085 reads as follows:

12 AAC 38 is amended by adding a new section to read:

12 AAC 38.085. BASE OF OPERATION. Permit holders in game management units one through four must not conduct or supervise guided hunts from more than one vessel over 18 feet or from no more than one land camp of operation. (Eff. \_\_/\_\_/\_\_, Reg. \_\_)

Authority: AS 08.54.040(a)  
AS 08.54.050

Comment: The board's intent behind this proposed section is not clear. One possibility is that the board intends to prevent a hunting party from splitting up into smaller groups. However, it is not clear whether the board has the authority to prevent that from happening.

The proposed section may be in conflict with present guide regulations which do not expressly require guided parties

to remain in one group. Under 12 AAC 38.175, a registered or master guide may employ guides to assist in a guiding operation and when such assistants are employed, the registered or master guide is required by 12 AAC 38.090 to be "in the field and participating in the conduct of the guided hunt." There is no express requirement that assistant guides are to be in the physical presence of their employer guide during the hunt, hence it appears to be permissible for an assistant guide accompanying a hunter to split off from the main group and conduct a hunt as long as that assistant is under the supervision of the employer guide.

The proposed section addresses only units one through four, raising again the suspicion of unequal treatment. The proposed section also appears to have other problems in that the phrase "conduct or supervise guided hunts from ... [a] vessel" is ambiguous if applied to a circumstance where a hunt is first conducted by vessel and later by land. Also, there is no apparent reason for the board's imposition of the 18' limit on the length of the vessel used in the hunt. Is the board encouraging the use of a flotilla of small boats over a single cabin cruiser? Finally, what definition of "land camp of operation" does the board intend to apply? Does the board intend to distinguish between a base camp and a temporary "spike" camp? If so, a new definition section should address this distinction.

Suggested Action: The proposed section should be examined and revised, if necessary, in light of the board's intent and the existing regulatory scheme.

Proposed 12 AAC 38.140(a)(3) reads as follows:

12 AAC 38.140(a) is amended by adding a new paragraph (3) to read:

(3) the applicant must hold a current certification of basic first aid skills prior to taking the examination. (Eff. 6/28/74, Reg. 50; am 6/16/85, Reg. 94; am \_\_\_/\_\_\_/\_\_\_, Reg. \_\_\_)

Authority: AS 08.54.040  
AS 08.54.050  
AS 08.54.110(2)

Comment: Public policy favors requiring guides to have certified first aid skills in view of the nature of their profession. It is noted that 12 AAC 38.140 imposes licensing

Kathy Marshall, Director  
Division of Occupational Licensing

October 23, 1986  
Page 6

requirements in addition to those set forth in AS 08.54.110 and that subsection (3) of that statute requires a guide to have "... practical field experience in ... first aid ...." This requirement is in contrast to the proposed subsection which provides that an applicant for a registered guide license is not allowed to take the examination unless the applicant holds a current certification of first aid skills. However, these two requirements are not wholly duplicative in that one calls for practical experience whereas the other calls for formal certification of those skills.

Suggested Action: This subsection is approved for submittal to the Lieutenant Governor's office.

LCD:ihr

cc: Kevin Henderson ✓  
Regulations Specialist  
Ray McNutt, Chairman  
Guide Licensing & Control Board  
Charles Ward, Investigator

# MEMORANDUM

# State of Alaska

TO: Lawrence C. Delay  
Assistant Attorney General  
Commercial Section  
Department of Law

DATE: October 31, 1986

FILE NO.: 993-86-0072

THRU:

TELEPHONE NO.: 465-2535

SUBJECT: Guide Board proposed  
regulations

~~\_\_\_\_\_~~  
FROM: Kevin D. Henderson  
Regulations Specialist  
Division of Occupational Licensing  
Department of Commerce and  
Economic Development

I have received your October 23, 1986 memorandum to Kathy Marshall concerning proposed regulations adopted by the Guide Board. The Guide Board requested an opportunity to review the comments and editing of the Attorney General's Office prior to the proposed regulations being filed; your review should clearly satisfy that request. I have sent your memo to all guide board members and have asked that they channel their concerns through me or Ray McNutt for forwarding to you.

These regulations were adopted by the board on April 10, 1986 and the adoption order was signed by the chairman on May 1, 1986. On May 12, 1986, they were transmitted to the Department of Law for final review and filing. The proposed regulations were typed in final form, without the changes indicated, in accordance with page 56 of the Drafting Manual for Administrative Regulations, Department of Law, 9th Edition.

On behalf of the division, allow me to respond to your comments and suggestions in the order you presented them.

1. Your suggested change to 12 AAC 38.052(d) is an improvement and appears to be well within your authority under AS 01.05.031(b). This amendment with your change should be approved for filing.
2. Your proposed rewrite of 12 AAC 38.054(g) is consistent with the board's intent and with 12 AAC 38.051 and should be approved for filing.
3. The division concurs with your assessment of 12 AAC 38.054(h) being equally concerned that this subsection provides for unequal treatment. This concern was highlighted by the Legislature in their passage of HCS CSSB 294 (Chapter 71, SLA 1986). Section 6 of that bill amends AS 08.54.040 by adding the word "consistent" to paragraph (7) and section 14 of the same bill adds AS 08.54.195 as a new statute calling for a point system for determining quotas for guide areas, this has yet to be developed. If this section is disapproved, I would suggest that your reasoning be fully explained to the board as guidance for adopting regulations in the future.

4. The division concurs with your revision to 12 AAC 38.056 and feels it is both consistent with the intent of the board and with your authority under AS 01.05.031(b).
5. As I understand it, 12 AAC 38.085 was originally proposed by guides in Southeast as a way of preventing a registered or master guide from conducting several hunts concurrently from more than one base camp. This has been a problem in Southeast especially with the use of larger marine vessels. Apparently there have been times when a single registered or master guide would conduct hunts from two large boats that could sleep several people. The boats would be hunting in different locations and, therefore, making it impossible for the guide to comply with 12 AAC 38.090. The significance of an 18' boat is not clear. Ray McNutt, Guide Board chairman, could be of more help on this proposed regulation.
6. The purpose of 12 AAC 38.140(a)(3) was to assure that an applicant has verifiable first aid knowledge at the time of application so that the Guide Board could remove first aid questions from the written examination. These questions have been controversial in the past. With the passage of SB 294, however, a primary authority for the entire section of 12 AAC 38.140 was removed by the repeal of AS 08.54.110(12). The division is currently working on a new regulation project that will include a proposal to repeal 12 AAC 38.140 entirely. We believe, however, that AS 08.54.110(3) is sufficient authority for requiring first aid certification and suggest that this section be approved and renumbered as a single separate section.

After you have received a response from the board chairman, your final review, editing, and approval for filing of these regulations would be appreciated. We are beginning to work on a major reworking of all guide board regulations, including renumbering. Any comments or suggestions you have concerning the Guide Board and its regulations will be appreciated.

KH/wfs4643W  
103186b

cc: Kathy Marshall, Director  
Helen Welch, Administrative Assistant ✓  
Guide Board members



# STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY  
BUREAU OF WILDLIFE PROTECTION

BILL SHEFFIELD, GOVERNOR

ROBERT J. SUNDBERG  
COMMISSIONER

P. O. BOX 5108, ANNEX  
ANCHORAGE, ALASKA 99502

February 28, 1983

Clark Engel, Master Guide  
4129 Lana Court  
Anchorage, Alaska 99504

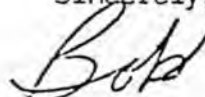
Dear Clark:

During the past few years the guiding industry through the Guide Board has made substantial improvements in cleaning up the industry and improving the image of guiding in Alaska. The Guide Board distribution of exclusive guide areas and its thorough investigations of accusations made against members of the guiding industry have gone a long way to improving the guiding business in Alaska.

With over 1,100 licensed guides, ranging from Master Guides to Assistants it takes a well coordinated effort to ensure that the same standards are applied by the guiding industry throughout the state. The industry has an impact upon tourism and upon the image of the state of Alaska through the sportsmen that it caters to. This Board has helped standardize the practices and procedures through which the guides have operated thereby giving the guiding industry in Alaska a good image on the outside. From a law enforcement standpoint, during the past few years we have seen a steady decline in the number of guide related violations. In fact, in FY-82 of the commercial users of the resource, the guiding industry had one of the lowest of violation rates of any in the state. I think this speaks highly on the industry and this trend should be continued. Guiding has a role in Alaska and how big that role will be will depend entirely upon the activities and the image of the industry.

Clark, this isn't much but I hope this will give you and your members some idea of how I felt the industry has progressed and the usefulness of the Board during my few years of association with them.

Sincerely,



Colonel Robert J. Stickles  
Director

RJS/rt



Packet  
Sargent Bowtang

nick jordan

in charge ?? 269-5653

LIST

NEWSLETTER

Personal Arrangements

Car  
Airlines/Travel Agent  
Place to Stay

Research Questions

List of Guides and Outfitters/Associations - Who represents who  
Summary of Master, Assistant, Registered Guide  
Proof of Illegal Outfitting  
Game Management Unit Map with Overlay of Who has What area  
Where Allocation Process fits  
Federal Lands/Commercial Operations  
Enforcement Actions  
Enforcement Dollars  
Where does subsistence fit

Problems with Guides/Outfitters

Women training  
History of bad experiences  
Illegal actions by guide board  
Is entry too limited  
Illegal Outfitting  
Legitimate Outfitting  
What's best for the resource  
What's best for the economy

Possible Solutions/Angles

More Money for Enforcement  
Guides doing a better job at safari shows etc.  
Regulating Outfitters  
Allocation Process  
Fairer way to get your own area  
Require Hunters who hire a guide to check registered guide  
list or revoke license

Phone Log  
 Calls made by Rep Herrmann's Office for  
 House Resources Committee

TO	#	PLACE
465-4648	Juneau C10	Juneau
842-5667	Dorothy Larson	Dillingham
842-5319	Dorothy Dillingham C10	"
465-3706	Rep Adams	Juneau
465-4942	Rep Herrmann 3x	"
465-2450	Legal Services	71
465-4992	Rep Kaponen 2x	"

NA  
NA

David McGuire MD - King Salmon → 562-4142<sup>##</sup>

Ed Grasser - Talkeetna → 745-6944

Bernie Harms -

Jay Murray Cordwood

Joe Klutsch

Naknek → Borough ..... Jim Clark .....

Togalak

Bridge #  
562-2867

20 ~~Bill~~ ~~of~~ Over Contact C10

• Public

~~Bills~~  
~~Sectional~~  
~~Press Release~~  
~~Agendas~~

WRITTEN

Sectional Analysis  
More Letters  
Resources Calendar  
Memo Tam  
Memo to Ben re: Lyman  
Max re: minutes???

TELECONFERENCE

Call Juneau re: sites  
Egegik  
Newhalen  
Dorothy  
Lyman/re: Bethel  
Port Heiden

OUTFITTER CALLS

Carol Klutxch  
Karl Lane  
White Cougar  
Jay Massey  
Others in Book  
Jim Clark

SET-UP

Pads  
Pens  
Pencils  
Scrap Pads

✓ write, compile xerox

Bills  
Public Packets  
✓ Sign - In

WITNESSES

Ed  
Seargent Boutang

Jack Jordan  
Liza McCracken  
Keving Henderson/Jenny Strickler

Dave Tim  
✓ Chuck Weir (sp?)

Game Board People  
Guide Licensing & Control Board People

Beth Ziegler  
✓

RESEARCH

Page 9 of Report registered and master guides can have a max. of three exclusive areas/designated areas check on curretn law.

Guide Board Membership - are all guides?

Info. on Examiners and who becomes a guide.

\*\*\*Maps\*\*\*



HOUSE RESOURCES COMMITTEE HEARINGS

Agenda for Hearings & Teleconference On HB 183 - Guides & Outfitters  
Representative Adelheid Herrmann, Co-chair  
October 14-16, 1987

WEDNESDAY OCTOBER 14, 1987

9:00 AM - 12:00 NOON

1 Introductions

11 Opening Remarks

Remarks on the Issue by Representative Herrmann  
Senator Coghill's Office - Status of SB 191

111 History of Guiding in Alaska

Chuck Weir - Member, Guide Licensing and Control Board  
Charles Ward & Other Staff, Guide Licensing and Control Board

1V Division of Fish and Wildlife Protection

Enforcement actions, Violations, Enforcement Funds

V Assistant Attorney General

Issues concerning Residency  
The Role of the Game Board in making allocations

12:00 NOON - 1:30 PM - LUNCH

1:30 PM - 5:00 PM

V1 Question/Answers

Questions of witnesses from legislators  
Legislators' discussion on issue and suggestions for change  
Requests from legislators for further witnesses

THURSDAY OCTOBER 14, 1987

9:00 AM - 12:00 NOON

Carry Over From Wednesday

12:00 Noon - 1:30 PM - Lunch

1:30 PM - 5:00 PM

Public Testimony may begin pending completion of legislators'  
discussion

FRIDAY OCTOBER 16, 1987

9:00 AM - 12:00 NOON

1:30 PM - 5:00 PM

These times are reserved for Public Testimony.

S B

192

# HOUSE COMMITTEE REPORT

(9)

Date referred: 3/9/88

FURTHER REFERRALS: Finance

DATE: 5-5-88

The Resources Committee has considered CSSB 192(Res)

"An Act relating to the membership of the agricultural revolving loan fund board; and providing for an effective date."

### RECOMMENDS:

- replace with HCS CSSB 192(Res)  the same title  
 attached amendment(s)  a new title
- do pass  
 do not pass  
 no recommendation  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS:  \_\_\_\_\_ letter of intent

### ATTACHES NEW FISCAL NOTE(s):

- fiscal impact  same as previous fiscal note published \_\_\_\_\_  
 zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_  
 zero with analysis

### SIGNING DO PASS:

See Gth  
Mike Young  
True Pearce  
Jay Kestral  
Frank Smith  
Adelheid Herrmann

### SIGNING OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

See Gth

Chairman's signature

Original sponsor: Kerttula

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
 2 HOUSE CS FOR CS FOR SENATE BILL NO. 192 (Resources)  
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the membership of the Agricul-  
 7 tural Revolving Loan Fund Board; and providing for an  
 8 effective date."

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

10 \* Section 1. AS 03.10.050(b) is amended to read:

11 (b) The board is composed of seven [FIVE] members appointed by  
 12 the governor and confirmed by the legislature in joint session. Five  
 13 [THREE] members shall be persons with background and experience in  
 14 Alaska agriculture, two of whom shall be farmers who are residents in  
 15 the state, operate producing farms in the state, and have operated the  
 16 producing farms in the state for at least five years. Members of the  
 17 board serve at the pleasure of the governor for overlapping three-year  
 18 terms. Members of the board are not entitled to receive compensation  
 19 for their services, but shall receive the same travel pay and per diem  
 20 as provided by law for boards and commissions.

21 \* Sec. 2. AS 03.10.052 is amended by adding a new subsection to read:

22 (b) A person may not serve on the board if the person is delin-  
 23 quent on payments on a loan obtained under this chapter. The governor  
 24 shall discharge a member of the board who is delinquent on payments on  
 25 a loan obtained under this chapter within 30 days after the delin-  
 26 quency occurs.

27 \* Sec. 3. INITIAL APPOINTMENTS. The governor shall appoint two resi-  
 28 dents who operate producing farms in the state and who have operated  
 29 producing farms in the state for at least five years to fill the new

1 positions created on the Agricultural Revolving Loan Fund Board by this  
2 Act. The governor shall appoint one person to an initial term of three  
3 years and one person to an initial term of two years to fill the new posi-  
4 tions on the board.

5 \* Sec. 4. This Act takes effect January 1, 1989.  
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Official Business

# Alaska State Legislature

## Senate

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

TO: Representative Sam Cotten, Chairman House Resources  
Committee

FROM: Senator Jay Kerttula

RE: SB 192, "An Act relating to the membership of the  
agricultural revolving loan fund board."

DATE: April 13, 1988

### SPONSOR STATEMENT

SB 192, relating to the agricultural revolving loan fund (ARLF) board, would make a small but important change in the composition of the board.

Presently, the board includes five members. SB 192 would change the board so that there would be seven total members and two of them would be required to be presently operating producing farms and to have been doing so for at least five years.

It is critical to the future of Alaskan agriculture that we have farmers involved in the decision-making that the ARLF board does. Without requiring that producing farmers be on the board we effectively cut out the most important and knowledgeable group of people from participation.

A broad geographic representation is also necessary for a properly operating board. This is difficult with only five members. A seven-member board will help us achieve a much broader perspective on the board.

As the Director of Agriculture says in the attached article, farmers need "a banker who knows farming and who knows a potentially profitable operating from a losing one." Without farmers on the ARLF board the state is not taking advantage of a wealth of knowledge it could be utilizing.

Thank you for your consideration of SB 192.



Please hurry up before the property lines around you jump and you miss out on a deal of a lifetime.

Have a nice day.

Al Naumann  
Wasilla

Readers are invited to submit letters to Mail Drop on any subjects of public interest. Longer articles of 500 to 800 words may be submitted for Spectrum, along with charts or graphic information. All letters must include the author's name and telephone number (the number will not be published). Send mail to Editor, Frontiersman, 1261 Seward Meridian Road, Wasilla, AK, 99687.

## Legislation would add seats to loan board

Legislation by Sen. Jay Kerttula, D-Palmer, to increase the number of members on the Agricultural Revolving Loan Fund board from five to seven, passed the Senate by a vote of 20-0.

"It is critical to the future of Alaska agriculture that we have farmers involved in the decision-making done by the ARLF board. Without requiring that producing farmers be on the board, we effectively eliminate the most important and knowledgeable group of people from participation," Sen. Kerttula said, when asked about his support of SB 1-92.

The two new ARLF board members would be required to be farmers who have been operating a producing farm for a minimum of five years.

"A broad geographic representation is also necessary for a well balanced, operating board. This is difficult

with only five members. A seven-member board will help achieve a much broader perspective on the board," Kerttula said.

FRONTIERSMAN  
3-18-88

Looking for  
sensible  
life  
insurance?



Announcing . . .

## New Location

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Collections  
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Corporations



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Rea.  
Con  
Prot  
Add

WASILLA  
373-0121

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2nd Floor

1st National Bank of Anchorage

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 Ends April

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 \*NEW DRESSES ARRIVING

### Additional 20% ON ALL DRESSES ALREADY

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Fashion

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## MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT PUBLIC HEARINGS SEARCH & SEIZURE POLICY REVIEW

Public Hearings are set-up in the following communities:

Upper Valley communities:  
Summit Valley High School

Houston community  
Houston High School



AGRICULTURE

# The state must view agriculture as a business

BY MARK WEAVER

Does Alaska have an agricultural policy?

When money was easy, we had agricultural policies by the dozen. We had a policy to promote the grain industry; we had a policy to promote dairying; we had a policy of promoting a whole slew of agricultural commodities by lending money to people who had little capital of their own and little history of management.

As long as money was easy, the wisdom of these policies was not tested. Now the well is drying up. Their legacies are coming to haunt us: Delinquent farm debt. Processing facilities that are empty or unprofitable. Angry farmers. A disenchanted public.

Where do we go from here? Some say, "Do nothing." In fact, doing nothing will cause more waste.

I propose a different strategy. The first step is to recognize the valuable lessons that Delta, Point Mackenzie and



other recent experiences can teach us.

• Lesson No. 1: Easy farm credit too often rewards bad management. It does not produce private sector growth that is sustainable and unsubsidized.

• Lesson No. 2: To encourage agricultural production for its own sake is foolishness. Supply must be driven by demand.

• Lesson No. 3: Farmers must be required to bear the ordinary risks of doing business. Farming may be different from other businesses, but it is not special.

In every sector of the agriculture industry in Alaska there are successful farmers — those who profitably grow and market their crops and are in control of their debt. Horticultural crops — vegetables and potatoes from tradi-

tional farms, bedding plants, shrubs and other ornamentals from nursery and greenhouse producers — accounted for \$17 million in gross sales last year, along with 1,500 jobs. But even in depressed sectors such as livestock and grain there are producers who are making it — without need of a bailout. There is nothing wrong with agriculture in this state, only with what we have tried to do to it.

What is the future of farming in Alaska? What role should state government play?

To my way of thinking, government involvement of any kind is inappropriate, unless basic criteria are met:

Can government provide a service that the private sector cannot provide? Is there a public interest at stake that justifies expenditure of public funds?

If the answer to either of these queries is "No," then government probably should stay out!

I can identify only four kinds of government services to agriculture that seem to meet this test. They are:

• **Inspection of food and farm products** destined for public use or consumption. A quality inspection program is the key that opens the door to the market place for the local farmer. It is mandated by federal law in some instances, and helps to promote a healthy competition for product quality. At the same time it protects retailers and the public from those who would use Alaska as a dumping ground for poor quality import.

• **Research.** Innovation on the farm depends upon scientific research applied to real world problems. Our farmers sacrifice time and money in an effort to identify new crops or methods that can give Alaska a competitive advantage. They cannot do this efficiently, nor take advantage of what they learn without scientific support. Gov-

ernment should fill this void.

• **Credit.** Private banks do not like to deal with agriculture, here or anywhere. Farmers do not need free money. They do need a bank they can rely on and, this is most important, a banker who knows farming and who knows a potentially profitable operation from a losing one. Nobody deserves a loan just because he is a farmer. But farmers, like other businessmen, deserve loans when their credit is good.

• **Access to Land.** In virtually every state, local governments have acted to protect their best agricultural lands from erosion and incompatible development. For this reason, the Hammond administration initiated an agricultural title system that offered farmers ownership, subject to a condition that the land not be abused nor diverted to uses inconsistent with agriculture. This system is without doubt the most valuable legacy of the big project

era. It is the tool that preserves the raw material of the farmer's trade at a price compatible with the long term nature of his investment.

Inspection, research, credit and land access pass the acid test for government involvement in agriculture. With few exceptions, if a service is outside the scope of these four areas, the government of this state probably should not be providing it.

When money was easy, we could afford to pursue agriculture as one more Alaskan lifestyle. Now we have no choice but to view agriculture as a business. If we stick to basics, it will grow at its own pace, and require no subsidy. It will provide jobs, and quality produce for all of us. And, by the way, those who succeed in it will enjoy a rewarding lifestyle.

□ Mark Weaver is Director of the Division of Agriculture.



# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400

May 4, 1988

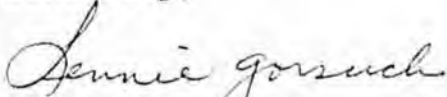
The Honorable Sam Cotten  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Cotter:

Subject: Senate Bill 192, which would increase the membership of the Agriculture Revolving Loan Fund Board (ARLF) from five to seven persons.

Position: The Department of Natural Resources supports this bill because it will ensure that at least two members of the ARLF Board are producing farmers. There is currently no requirement that any Board seats be reserved for persons actively engaged in farming.

Sincerely,



*for* Judith M. Brady  
Commissioner

cc: House Resource Committee  
Senator Kerttula  
Bill Sponsor  
Bob Evans  
Ron Clarke  
Mark Weaver

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_ Bill Version CS SB 192 (Res)  
 \_\_\_\_\_ Publish Date: (SENATE) 3/7/88  
 Revision Date: \_\_\_\_\_ Agency Affected: Natural Resources  
 Title: Membership of ARLF Board BRU: Agriculture  
 Sponsor: Senator Kerttula Components: \_\_\_\_\_  
 Requestor: Senate resources

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-*	-0-*

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

\*Board members receive no salary but receive per diem and travel funds from the ARLF. This totals approximately \$4,000 per year per member. Adding 2 members to the board could result in an additional \$8,000 expenditure from the ARLF.

Prepared by: Carol Wilson Phone: 465-2400  
 Division: Commissioner's Office Date: \_\_\_\_\_

Approved by Commissioner: Lynn Boston Jones Date: 4/2/87  
 Agency: Natural Resources

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



Official Business

# Alaska State Legislature

## Senate

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

TO: Representative Sam Cotten, Chairman House Resources  
Committee

FROM: Senator Jay Kerttula

RE: SB-192, "An Act relating to the membership of the  
agricultural revolving loan fund board."

DATE: April 13, 1988

I would appreciate your scheduling SB-192 for a hearing before the House Resources Committee at your earliest possible convenience.

Attached is a packet of information for your use; the bill is very straight-forward. Please contact me if you have any questions.

Thanks for your consideration of this request.

SB

196

4/29 Cliff/Tom/Larry/Gail/Jennifer/Sally Slaughter

Mon 8-10 - HB 289

Cliff - wh. activs need to be addressed  
manicature -  
public notice

Do 124 -

- ① ag land exemption? - project ag. | Highlands (sy policy?)  
timber sales - roads -  
size of area? - site spec
- ② Local spit plan adoption -  
want to add condition for commit to adopt a plan -  
public hng. -  
portions of plans vs entire plan -  
notice - mailing; display ads; consult'n w/ agencies.
- ③ Findings - when use the site-spec. plan's alt v - DNR  
did finish area plans -  
Cliff will draft



Senator John B. Coghill  
Alaska State Legislature



Box 3  
Juneau, Alaska 99801  
(907) 586-4707

Juneau, Alaska 99801  
(907) 586-4707

May 13, 1987

MEMORANDUM

To: All Members of the Senate  
From: Senator John B. Coghill  
Re: CSSB 196 (Rules)

The passage of CSSB 196 (Rules) is essential because a recent Supreme Court decision (Alaska Survival v. State of Alaska) requires the department of Natural Resources to do regional land plans before disposals of state land or resources can take place.

The Alaska Survival case addressed a land disposal at Chase. However its implications go much further than programmatic land disposals. Since August 29, 1986, the department has stopped all new classification actions that are not based on comprehensive plans.

DNR has been making prudent decisions on a site specific basis in areas without regional plans for many years. The result of the court decision is that conveyances and disposals in areas without regional plans are now held up.

Examples of the impact of this court decision include:

1. State timber near Cooper Landing is infested with beetles. Despite a U.S. Forest Service plan to cut timber adjacent to state land, the state's Division of Forestry cannot sell our affected timber because the land is unclassified. There is no area plan for state lands on the Kenai, so the land cannot be classified.
2. Several residents of the Hope area hold U.S. Forest Service permits for land now owned by the state. The state cannot sell the permitted land to the occupants as required under the



preference rights statute because it is not appropriately classified. The land cannot be reclassified.

5. The City of Nome has not been able to acquire a tidelands lease to protect the rock loading jetty it built because there is no comprehensive plan on which to base a classification action required for lease issuance.

In short, while the subject of Alaska Survival v. State of Alaska was programmatic land disposals, the decision stymied other land management actions such as leasing unclassified lands, particularly tide and submerged lands; conducting timber sales over 10MBF; selling land to U.S. Forest Service permittees and resolving municipal claims.

In addition to authorizing the department to adopt site-specific plans land use plans of the department or a municipality with planning and zoning powers, CSSB 196 also makes changes to Title 38, that reflect the needs of the department.

A sectional analysis is attached.

## Sectional Analysis

### CSSB 196 (Rules)

Sec.1: The section amends existing law to require plans be adopted instead of developed by the Commissioner.

Sec. 2: This section removed the word "region" in existing law, to remove any implied or inferred distinction between an "area" and a "regional" plan. It also given priority to renewable and non-renewable resource development.

Sec. 3: Same improvement as Sec. 2.

Sec. 4: This new language allows the department to use plans adopted by other entities and local governments as a basis for classification actions when the Commissioner, after public and agency review, determines those plans are in the best interest of the state. This is a dollars and sense provision that lets us take advantage of other plans when we haven't done our own.

Sec. 5: Technical change.

Sec. 6: The changes are intended to reinforce the consistency of state plans with municipal plans.

Sec. 7: The section makes clear that a regional plan must be adopted before the department may proceed with a programmatic land disposal (hcmesite, homestead, lottery) as a new commercial ag project. It also makes clear that oil and gas lease sales are subject to the five year sale process in existing law.

Sec. 8: This technical amendment brings the definition of short term lease current with changes adopted in AS 38.05.060(b) in 1984.

Sec. 9: This amendment allows the department to sell land at fair market value to folks who acquired improvements on the land from another state agency when that land is excess to existing state programs.

Sec. 10: This section amends existing law on best interest findings, required prior to disposal of state interests, to allow the Commissioner to reoffer oil and gas interests within 3 years after a prior best interest finding. Under existing law, when leases are rescinded or are not sold at a lease sale, the Commissioner may be required to go through the best interest finding process a second time.

Sec. 11: This amendment makes clear that the department shall retain a reversionary interest in land which it conveys at less than fair market value to a local government or charitable institution. It further requires a written best interest finding if the reversionary interest retention is not in the best interest of the state and should be waived.

Sec. 12: This amendment conforms the definition of veteran in this section to that which is the standard in all other definitions of veteran for the purpose of land discounts.

Sec. 13: This amendment allows homesteaders to trade entry permits upon the commissioner approval. It allows family members and friends to receive adjacent parcels when everyone is willing.

Sec. 14: This amendment give a little breathing room to homesteaders who currently have only 1 years to survey their parcels. Funding cuts to the department have slowed the issuance of survey instructions. It also clarifies the cleaing requirements made necessary by massive soil reclassifications by SCS.

Sec. 15: This section deletes the lot line brushing requirements for a homesteader when a parcel is described by aliquot parts. It also conforms the soil classification language improved in Sec. 14.

Sec. 16: This section validates land classification made prior to the supreme court decision in Alaska Survival pending the completion of plans.

Sec. 17: This section validates land management and disposal decisions made by the commiss. oner on the basis of AS 38.05.300 (site specific plans) prior to the effective date of this bill, whether or not area plans underlay the classification orders leading to disposal.

Sec. 18: This section makes clear that mineral management decisions made pursuant to existing law before this Act are valid whether or not the land as classified.

Sec. 19: This section reinforces the decision of the Supreme Court that DNR must reconsider its Chase decision.

Sec. 20: This section repeals the section that was amended in Sec. 15. It makes survey of homesteads uniformly 5 years instead of 2 and up to 5 on a case by case basis.

Sec. 21: Provides for an effective date.

# STATE OF ALASKA

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May 6, 1987

The Honorable Sam Cotten  
Co-Chairman  
House Resources Committee  
P. O. Box V  
Juneau, Ak 99811

Dear Representative Cotten:

This letter responds to your request for an opinion concerning the potential implications of Alaska Survival v. State, 723 P.2d 1281 (Alaska 1986), in the absence of legislation amending AS 38.04.065.

Before the Alaska Survival decision, the Department of Natural Resources (DNR), in accordance with its regulations, routinely classified land on the basis of site-specific land use plans if the land was located in an area of the state which was not yet included in a comprehensive regional land use plan. The court held that this procedure violated AS 38.04.065, stating:

In our view, both the organization of the statutory scheme and the particular language of AS 38.04.065(c) and (d) express an unambiguous intent that regional planning precede land classifications and disposals.

Alaska Survival v. State, 723 P.2d at 1289.

The court's ruling has created considerable uncertainty with respect to the authority of DNR to manage and develop state land and resources because less than half of the land owned by the state is now covered by regional land use plans. In addition, there are a number of unresolved questions concerning the scope of the supreme court's ruling.

DNR, with the advice of this office, has interpreted the Alaska Survival decision narrowly as having only prospective effect and as prohibiting only new classification actions, but not necessarily disposals, before regional plans are complete.