

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6490 SENATE RESOURCES

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1 cardiopulmonary resuscitation;

2 (5) is in sound physical condition; and

3 (6) meets additional qualifications that the board may  
4 establish.

5 (b) An assistant guide-outfitter

6 (1) may not contract to guide-outfit hunts; and

7 (2) shall be employed by a guide-outfitter and under the  
8 supervision of a guide-outfitter or class-A guide-outfitter at all  
9 times while the assistant guide-outfitter is in the field on guide-  
10 outfitted hunts.

11 Sec. 08.54.400. TRANSPORTER LICENSE. (a) A person is entitled  
12 to a transporter license if the person

13 (1) applies on a form provided by the department;

14 (2) pays the license fee;

15 (3) pays the commercial use permit fee;

16 (4) provides proof of

17 (A) an air taxi/commercial operator certificate issued  
18 by the Federal Aviation Administration under 14 C.F.R. Part 135,  
19 if the person provides air transportation services to big game  
20 hunters;

21 (B) licensure by the Coast Guard to carry passengers  
22 for hire, if the person provides water transportation services to  
23 big game hunters; and

24 (5) has a business license to transport big game hunters.

25 (b) A transporter may provide transportation services for com-  
26 pensation to big game hunters. A transporter may not provide any  
27 service in the field to big game hunters other than transportation,  
28 except that a transporter may provide accommodations in the field at a  
29 permanent lodge, house, or cabin owned by the transporter or on a boat

1 with permanent living quarters owned by the transporter used for over-  
2 night commercial hunts for Sitka blacktail deer, elk, and marine  
3 mammals.

4 (c) An applicant for renewal of a transporter license shall  
5 submit with the application for renewal

6 (1) an activity report on a form provided by the department  
7 for the period covered by the current license; an activity report  
8 shall contain information required by the board by regulation;

9 (2) the big game conservation fees due for the period  
10 covered by the current license;

11 (3) the license fee for the next licensing period;

12 (4) the commercial use permit fee for the next licensing  
13 period; and

14 (5) proof of

15 (A) an air taxi/commercial operator certificate issued  
16 by the Federal Aviation Administration under 14 C.F.R. Part 135,  
17 if the applicant provides air transportation services to big game  
18 hunters;

19 (B) licensure by the Coast Guard to carry passengers  
20 for hire, if the applicant provides water transportation services  
21 to big game hunters.

22 (d) The department may not renew a transporter license unless  
23 all fees have been paid in full and the activity report required under  
24 (c)(1) of this section and the proof required under (c)(5) of this  
25 section have been filed.

26 (e) A transporter shall place a decal provided by the department  
27 on each plane, boat, vehicle, or other equipment used by the trans-  
28 porter to provide transportation services to big game hunters. The  
29 decal must bear the transporter's license number. The decal is valid

1 only for the plane, boat, vehicle, or other equipment for which the  
2 decal is issued.

3 Sec. 08.54.410. APPEAL TO COMMISSIONER FROM BOARD ON DENIAL OF  
4 LICENSE. The commissioner of commerce and economic development may  
5 order that an applicant for an initial license under AS 08.54.350 -  
6 08.54.400 be allowed to take the license examination or be issued the  
7 license if, after reviewing a petition filed by the applicant, the  
8 commissioner finds that

9 (1) the board denied the applicant an opportunity to take  
10 the license examination or refused to approve issuance of the license;

11 (2) the board's denial or refusal has been upheld by a  
12 final administrative order and the order has not been appealed to the  
13 superior court under AS 44.62.560;

14 (3) the board's denial or refusal was based on

15 (A) an error of fact by the board; or

16 (B) the applicant's failure of the license examination  
17 due to faulty or unfair examination questions or procedures;

18 (4) the applicant is otherwise qualified to take the exam-  
19 ination or to be issued the license; and

20 (5) sustaining the board's denial or refusal would work a  
21 substantial injustice on the applicant.

22 Sec. 08.54.420. RENEWAL OF LICENSES. Notwithstanding AS 08.01.-  
23 100(a), guide-outfitter, marine mammal guide-outfitter, and transport-  
24 er licenses shall be renewed annually on dates set by the department  
25 with the approval of the board.

26 Sec. 08.54.430. EXAMINATIONS FOR GUIDE-OUTFITTER LICENSES. (a)  
27 The board shall administer the qualification examinations required  
28 under this chapter at least twice a year. An examination may not be  
29 given within 90 days after the previous examination. At least once

1 every other year the board shall give the examination at a location  
2 other than Anchorage.

3 (b) The board shall regularly disseminate information regarding  
4 examinations and other qualifications for all classes of guide-out-  
5 fitter licenses to residents of the rural areas of the state.

6 Sec. 08.54.440. FAILURE TO RENEW. (a) A license may not be  
7 issued to a guide-outfitter, marine mammal guide-outfitter, class-A  
8 guide-outfitter, or assistant guide-outfitter who has failed to renew  
9 a license issued under this chapter for two consecutive years unless  
10 the guide-outfitter, marine mammal guide-outfitter, class-A guide-  
11 outfitter, or assistant guide-outfitter again meets the qualifications  
12 for initial issuance of the license.

13 (b) Notwithstanding (a) of this section, a guide-outfitter who  
14 fails to renew a license is not required to requalify under AS 08.54.-  
15 350(a)(7), unless the license has been lapsed for three or more years.

16 Sec. 08.54.450. LICENSE AND EXAMINATION FEES. (a) The depart-  
17 ment shall set license fees under AS 08.01.065 for each of the follow-  
18 ing:

- 19 (1) guide-outfitter
- 20 (2) class-A guide-outfitter;
- 21 (3) assistant guide-outfitter;
- 22 (4) marine mammal guide-outfitter;
- 23 (5) transporter.

24 (b) The license fee for the guide-outfitter, marine mammal  
25 guide-outfitter, class-A guide-outfitter, or assistant guide-outfitter  
26 license is in addition to the fee required for a hunting license.

27 (c) An applicant for a qualifying examination for any class of  
28 guide-outfitter license shall pay a fee established by regulations  
29 adopted under AS 08.01.065.



1 may hold a hearing to determine whether disciplinary action is neces-  
2 sary if a complaint concerning the guide-outfitting activities of a  
3 licensee who holds any class of guide-outfitter license is filed with  
4 the board by a client of the licensee. The board shall hold a hearing  
5 to determine whether a licensee should be disciplined within a  
6 reasonable time after

7 (1) complaints concerning a licensee's guide-outfitting  
8 activities are filed with the board by three or more of the licensee's  
9 clients from separate hunting parties;

10 (2) a complaint concerning a licensee's conduct during a  
11 life-threatening situation is filed with the board; or

12 (3) a licensee has been convicted of a violation of a  
13 federal or state statute or regulation relating to hunting or pro-  
14 vision of big game commercial services.

15 (b) After a hearing, the board may revoke, suspend, or deny  
16 renewal of any class of guide-outfitter license, if the board finds  
17 that the licensee

18 (1) engaged in unethical activity, unsafe activity, or  
19 activity that adversely affects the natural resources of the state  
20 when the activity is related to the purposes of providing guide-out-  
21 fitting services; or

22 (2) violated a provision of a federal or state statute or  
23 regulation relating to hunting or provision of big game commercial  
24 services.

25 (c) After a hearing, the board shall revoke any class of guide-  
26 outfitter license if the board finds that the licensee

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

29 (2) is incompetent as a guide-outfitter, marine mammal

1 guide-outfitter, class-A guide-outfitter, or assistant guide-out-  
2 fitter; or

3 (3) during the five years immediately preceding the hearing  
4 has been convicted of a violation of a federal or state statute or  
5 regulation prohibiting

6 (A) waste of a wild food animal;

7 (B) hunting on the same day airborne;

8 (C) hunting during a closed hunting season; or

9 (D) hunting in an area closed by federal regulation.

10 (d) If a certified copy of a judgment of conviction of a licens-  
11 ee who holds any class of guide-outfitter license for an offense  
12 described under (c)(3) of this section is filed with the board, the  
13 board shall immediately suspend the licensee's license. The  
14 suspension may be ordered even if the conviction resulted from a plea  
15 of nolo contendere or if the conviction is under appeal. The  
16 suspension remains in effect until after the final disposition of the  
17 disciplinary proceeding under this section.

18 Sec. 08.54.505. DISCIPLINE OF TRANSPORTERS AND COMMERCIAL USE  
19 PERMITTEES. (a) The board may hold a hearing to determine whether  
20 disciplinary action is necessary if a complaint concerning the big  
21 game commercial service activities of a transporter who is licensed  
22 under AS 08.54.400 or a commercial use permittee who holds a permit  
23 issued under AS 08.54.460 is filed with the board by a client of the  
24 licensee or permittee. The board shall hold a hearing to determine  
25 whether a licensee or permittee should be disciplined within a  
26 reasonable time after

27 (1) complaints concerning a licensee's or permittee's  
28 activities are filed with the board by three or more of the licensee's  
29 or permittee's clients from separate hunting parties; or

1 (2) a licensee or permittee has been convicted of a viola-  
2 tion of a federal or state statute or regulation relating to hunting  
3 or provision of big game commercial services.

4 (b) After a hearing, the board may revoke, suspend, or deny  
5 renewal of a transporter license or commercial use permit issued under  
6 this chapter, if the board finds that the licensee or permittee

7 (1) engaged in unethical activity, unsafe activity, or  
8 activity that adversely affects the natural resources of the state  
9 when the activity is related to the purposes of providing big game  
10 commercial services; or

11 (2) violated a provision of a federal or state statute or  
12 regulation relating to hunting or provision of big game commercial  
13 services.

14 (c) After a hearing, the board shall revoke a license or permit  
15 if the board finds that the licensee or permittee

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

18 (2) during the five years immediately preceding the hearing  
19 has been convicted of a violation of a federal or state statute or  
20 regulation prohibiting

21 (A) waste of a wild food animal;

22 (B) hunting on the same day airborne;

23 (C) hunting during a closed hunting season; or

24 (D) hunting in an area closed by federal regulation.

25 (d) If a certified copy of a judgment of conviction of a licens-  
26 ee or permittee for an offense described under (c)(2) of this section  
27 is filed with the board, the board shall immediately suspend the  
28 licensee's or permittee's license or permit. The suspension may be  
29 ordered even if the conviction resulted from a pleas of nolo

1           contendere or if the conviction is under appeal. The suspension  
2           remains in effect until after the final disposition of the  
3           disciplinary proceeding under this section.

4           Sec. 08.54.510. DISCIPLINE; GENERAL PROVISIONS. (a) A person  
5           who is disciplined under AS 08.54.500 or 08.54.505 may not engage in  
6           the provision of big game commercial services during the period of  
7           license or permit revocation or other disciplinary action. A person  
8           who is licensed under this chapter, or who holds a permit issued under  
9           this chapter, may not hire a person whose license or permit to provide  
10          big game commercial services is suspended or revoked under AS 08.54.-  
11          500 or 08.54.505. A person whose license or permit is suspended or  
12          revoked may not be employed by a person who is licensed or who holds a  
13          permit under this chapter.

14          (b) If the board revokes a license or permit under AS 08.54.500  
15          or 08.54.505, the person whose license or permit has been revoked  
16          shall surrender immediately the license or permit to the department.

17          (c) A certified copy of a judgment of conviction of a licensee  
18          or permittee for an offense is conclusive evidence of the commission  
19          of that offense in a disciplinary proceeding instituted against the  
20          licensee or permittee under AS 08.54.500 or 08.54.505 based on that  
21          conviction, regardless of whether the conviction resulted from a plea  
22          of nolo contendere or the conviction is under appeal, unless the  
23          conviction is overturned on appeal.

24          (d) Within 30 days after conclusion of a hearing under AS 08.-  
25          54.500 or 08.54.505, the board shall notify the complainant of the  
26          results of the hearing, including written reasons justifying a deci-  
27          sion not to take disciplinary action.

28          Sec. 08.54.520. UNLAWFUL ACTS. (a) It is unlawful for a

29                 (1) person who is licensed or who holds a commercial use

1 permit under this chapter to fail to timely report to the Department  
2 of Public Safety, division of fish and wildlife protection, and in no  
3 event later than 30 days, a violation of a state fish, game, or big  
4 game commercial services statute or regulation that the person reason-  
5 ably believes was committed by a client or an employee of the person;

6 (2) person who is licensed or who holds a commercial use  
7 permit under this chapter to

8 (A) commit or aid the commission of a violation of  
9 this chapter, a regulation adopted under this chapter, or a state  
10 fish or game statute or regulation; or

11 (B) permit the commission of a violation of this  
12 chapter, a regulation adopted under this chapter, or a state fish  
13 or game statute or regulation that the person knows or reasonably  
14 believes is being or will be committed without

15 (i) attempting to prevent it, short of using  
16 force; and

17 (ii) reporting it;

18 (3) person without a current commercial use permit issued  
19 under this chapter to provide big game commercial services;

20 (4) person who is licensed or who holds a commercial use  
21 permit issued under this chapter to intentionally obstruct or hinder  
22 or attempt to obstruct or hinder lawful hunting engaged in by a person  
23 who is not a client of the person;

24 (5) guide-outfitter, marine mammal guide-outfitter, or  
25 transporter to fail to transmit to the department big game conserva-  
26 tion fees due under AS 16.05.344;

27 (6) class-A guide-outfitter or an assistant guide-outfitter  
28 to provide guide-outfitting services in the field on a  
29 guided-outfitted hunt except while employed and supervised by a

1 guide-outfitter; or

2 (7) person to provide guide-outfitter services without  
3 having a current guide-outfitter, marine mammal guide-outfitter,  
4 class-A guide-outfitter, or assistant guide-outfitter license and  
5 hunting license in actual possession;

6 (8) person without a current guide-outfitter or marine  
7 mammal guide-outfitter license to advertise as or represent to be a  
8 guide-outfitter;

9 (9) person to provide transportation services to big game  
10 hunters without holding a transporter license;

11 (10) class-A guide-outfitter or an assistant guide-outfitter  
12 to contract for a hunt;

13 (11) a person to engage in a big game commercial services  
14 activity during the period for which the person's license to conduct  
15 that activity is suspended or revoked.

16 (b) A person who commits an offense set out in (a)(1) - (6) of  
17 this section is guilty of a misdemeanor and is punishable by a fine of  
18 not more than \$30,000 or by imprisonment for not less than two months  
19 or more than one year, or both.

20 (c) A person who commits an offense set out in (a)(7) - (10) of  
21 this section is guilty,

22 (1) for a first offense, of a misdemeanor and is punishable  
23 by a fine of not more than \$30,000 or by imprisonment for not less  
24 than two months or more than one year, or both;

25 (2) for a second or subsequent offense, of a felony and is  
26 punishable by a fine of not more than \$50,000 or by imprisonment for  
27 not more than three years.

28 (d) A person who violates (a)(11) of this section, is guilty of  
29 a felony punishable, upon conviction, by a fine of not more than

1 \$50,000 and by imprisonment for not more than three years.

2 (e) In addition to the penalties set out in (b), (c) and (d) of  
3 this section,

4 (1) the court may revoke the person's license to provide  
5 ~~guide-outfitting~~ outfitting or transportation services for not more than five  
6 years; and

7 (2) all guns, fishing tackle, boats, aircraft, automobiles  
8 or other vehicles, camping gear, and other equipment and paraphernalia  
9 used in, or in aid of, a violation of (a) of this section may be  
10 seized by persons authorized to enforce this chapter and may be for-  
11 feited to the state as provided under AS 16.05.195.

12 (f) Upon conviction of a person for committing an offense set  
13 out in (a) of this section, the court may not suspend imposition of  
14 sentence.

15 Sec. 08.54.530. INJUNCTION AGAINST UNLAWFUL ACTION. When in the  
16 judgment of the board a person has engaged in an act in violation of  
17 AS 08.54.380(b), 08.54.390(b), 08.54.400(b), 08.54.510(a), and 08.54.  
18 520 or the regulations adopted under them, the board may apply to the  
19 appropriate court for an order enjoining the action. Upon a showing  
20 by the board that the person is engaging in the act, the court shall  
21 grant injunctive relief or other appropriate order without bond.

22 Sec. 08.54.540. RESPONSIBILITY OF GUIDE-OUTFITTER FOR VIOLA-  
23 TIONS. A guide-outfitter who contracts to guide-outfit a hunt is  
24 equally responsible under AS 08.54.500 for a violation of a federal or  
25 state sport fish, game, or guide-outfitting statute or regulation  
26 committed by a class-A guide-outfitter or an assistant guide-outfitter  
27 while in the course of the class-A guide-outfitter's or assistant  
28 guide-outfitter's employment for the guide-outfitter.

29 ARTICLE 7. GENERAL PROVISIONS.

1           Sec. 08.54.550. HUNT RECORDS; CONFIDENTIALITY OF HUNT RECORDS  
2           AND ACTIVITY REPORTS. (a) The department shall collect and maintain  
3           hunt records provided by guide-outfitters or marine mammal guide-out-  
4           fitters. A hunt record must include a list of all big game hunters  
5           who used the services of the guide-outfitter or marine mammal guide-  
6           outfitter, the number of each big game species taken, and other infor-  
7           mation required by the board. The department shall provide forms for  
8           reporting hunt records.

9           (b) The department shall make hunt records, and activity reports  
10          received under AS 08.54.400, available to state and federal agencies  
11          charged with the enforcement of statutes and regulations relating to  
12          guide-outfitting or game or with management of game if requested for  
13          game management or law enforcement purposes. Aggregated data compiled  
14          from hunt records and activity reports may be included in reports by  
15          the department. For all other purposes, the hunt records and activity  
16          reports are confidential and are not subject to inspection or copying  
17          under AS 09.25.110 - 09.25.125.

18          Sec. 08.54.590. DEFINITIONS. In this chapter

19               (1) "big game" means brown bear, grizzly bear, polar bear,  
20               caribou, moose, black bear, bison, Sitka blacktail deer, elk, mountain  
21               goat, musk-ox, wolf, wolverine, mountain or Dall sheep, and walrus;

22               (2) "board" means the Big Game Commercial Services Board;

23               (3) "department" means the Department of Commerce and  
24               Economic Development;

25               (4) "guide-outfit" means to provide big game commercial  
26               hunting services, for compensation, in the field but does not include  
27               transportation services;

28               (5) "field" means an area outside of established year-round  
29               dwellings, businesses, or other developments usually associated with a

1 city, town, or village; "field" does not include permanent hotels or  
2 roadhouses on the state road system;

3 (6) "transportation services" means the carriage for com-  
4 pensation of big game hunters, their equipment, or big game animals  
5 harvested by hunters to, from, or in the field;

6 (7) "unethical activity" means

7 (A) deception or misrepresentation involving prospec-  
8 tive or actual clients either before, during, or following the  
9 provision of big game commercial services, including misrepresen-  
10 tations through private or public advertising of the type, dura-  
11 tion, cost, or conditions of the services;

12 (B) making a guaranty that a species or certain number  
13 of species of game will be taken on a hunt;

14 (C) engaging in unsafe or unsportsmanlike activities  
15 that are detrimental to the game resources of the state, as  
16 defined by regulations of the board, including violations of  
17 state hunting or big game commercial services statutes or regu-  
18 lations; or

19 (D) accepting a deposit for big game commercial ser-  
20 vices without providing before the services are rendered a signed  
21 written contract to provide the services.

22 \* Sec. 4. AS 16.05 is amended by adding a new section to read:

23 Sec. 16.05.344. BIG GAME CONSERVATION FEE. (a) A big game  
24 conservation fee is due to the state for each animal taken by a hunter  
25 who

26 (1) takes an animal for which the hunter is required to  
27 have a big game tag under AS 16.05.340; and

28 (2) utilizes the services of a guide-outfitter, marine  
29 mammal guide-outfitter, or transporter licensed under AS 08.54 to

1 facilitate the taking of that animal.

2 (b) The big game conservation fee is equal to 25 percent of the  
3 big game tag fee set out in AS 16.05.340.

4 (c) The big game conservation fee shall be paid by the guide-  
5 outfitter or marine mammal guide-outfitter who contracted to guide-  
6 outfit the hunt on which the animal was taken. If the animal was not  
7 taken on a guide-outfitted hunt, then the fee shall be paid by the  
8 transporter who transports the animal from the field.

9 (d) A guide-outfitter, marine mammal guide-outfitter, or trans-  
10 porter shall pay fees due under this section to the Department of  
11 Commerce and Economic Development at the time of application for  
12 renewal of a guide-outfitter license, marine mammal guide-outfitter  
13 license, or transporter license. If the person who owes the fee due  
14 under this section does not apply for renewal of a license under AS  
15 08.54, the person shall pay the fee to the Department of Commerce and  
16 Economic Development by the end of the calendar year in which the  
17 animal was taken.

18 (e) The commissioner of administration shall separately account  
19 for big game conservation fees deposited in the general fund by the  
20 Department of Commerce and Economic Development. The annual estimated  
21 balance in the account may be used by the legislature to make appro-  
22 priations to the Department of Fish and Game and the Department of  
23 Public Safety to carry out their respective responsibilities for  
24 management of game resources and enforcement of game laws.

25 \* Sec. 5. AS 16.05.407(a) is amended to read:

26 (a) It is unlawful for a nonresident to hunt, pursue, or take  
27 brown bear, grizzly bear, polar bear, mountain goat, or sheep in this  
28 state, unless personally accompanied by

29 (1) a person who is licensed as a guide-outfitter. [MASTER

1 GUIDE, REGISTERED GUIDE,] class-A guide-outfitter, [ASSISTANT GUIDE]  
2 or assistant guide-outfitter [GUIDE] by the Big Game Commercial Ser-  
3 vices [GUIDE] Board; or

4 (2) a resident over 19 years of age who is

5 (A) the spouse of the nonresident; or

6 (B) is related to the nonresident, within and includ-  
7 ing the second degree of kindred, by marriage or blood.

8 \* Sec. 6. AS 16.05.407(d) is amended to read:

9 (d) A nonresident who violates (a) of this section, or who fails  
10 to furnish an affidavit under (b) [OR (e)] of this section, is guilty  
11 of a misdemeanor and upon conviction is punishable by imprisonment for  
12 not more than one year, or by a fine of not more than \$5,000, or by  
13 both.

14 \* Sec. 7. AS 16.05.408(a) is amended to read:

15 (a) It is a class A misdemeanor for a nonresident alien

16 (1) to hunt, pursue, or take marine mammals unless person-  
17 ally accompanied by a licensed marine mammal guide-outfitter [GUIDE];  
18 or

19 (2) to hunt, pursue, or take a big game animal as defined  
20 by the Board of Game unless personally accompanied by a guide-outfit-  
21 ter [LICENSED MASTER G. REGISTERED GUIDE,] or class-A guide-out-  
22 fitter licensed [ASSISTANT GUIDE] under AS 08.54.

23 \* Sec. 8. AS 16.05 is amended by adding a new section to read:

24 Sec. 16.05.783. BIG GAME HUNTING CLUBS PROHIBITED. (a) A  
25 hunting club may not

26 (1) engage in activities in direct support of big game  
27 hunting, including transportation or guide-outfitting of big game  
28 hunters; or

29 (2) provide facilities or services for big game hunting.

1 (b) In this section "hunting club" means

2 (1) an organization that offers use of property or services  
3 to individuals who pay a membership fee for the privilege of using the  
4 property or services for hunting; or

5 (2) a partnership, limited partnership, corporation, or  
6 unincorporated association through which property is jointly owned,  
7 leased, or otherwise held by members of the entity and through which  
8 the members are entitled to use the property for hunting.

9 \* Sec. 9. AS 39.50.200(b)(48) is amended to read:

10 (48) Big Game Commercial Services [GUIDE] Board AS 08.54.-  
11 300 [(AS 08.54.010)]; and

12 \* Sec. 10. AS 41.23.420(d) is amended to read:

13 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the  
14 authority of

15 (1) the Department of Fish and Game, the Board of Fisher-  
16 ies, the Board of Game, or the Big Game Commercial Services [GUIDE  
17 LICENSING AND CONTROL] Board under AS 08.54, AS 16, or AS 41.99.010;

18 (2) the Department of Environmental Conservation under AS  
19 46.03; or

20 (3) state agencies and municipalities under AS 44.19.145(a)-  
21 (11) and AS 46.40.100.

22 \* Sec. 11. AS 44.62.330(a)(35) is amended to read:

23 (35) Big Game Commercial Services [GUIDE LICENSING AND  
24 CONTROL] Board

25 \* Sec. 12. TRANSITION: GUIDE-OUTFITTER LICENSES. (a) Notwithstanding  
26 the repeal of AS 08.54.010 - 08.54.240, all licenses issued under AS 08.-  
27 54.010 - 08.54.240 are valid for the period for which the licenses were is-  
28 sued.

29 (b) For the purposes of AS 08.54.300 - 08.54.590 as enacted by sec. 3

1 of this Act, until new licenses are issued under this section, a

2 (1) master guide license issued under former AS 08.54.100 and a  
3 registered guide license issued under former AS 08.54.110 shall be con-  
4 sidered a guide-outfitter license issued under AS 08.54.350;

5 (2) class-A assistant guide license issued under former AS 08.-  
6 54.120 shall be considered a class-A guide-outfitter license issued under  
7 AS 08.54.380;

8 (3) an assistant guide license issued under former AS 08.54.140  
9 shall be considered an assistant guide-outfitter license issued under  
10 AS 08.54.390.

11 (c) At the time of the next license renewal following the effective  
12 date of this Act, each person licensed as

13 (1) a master guide or registered guide shall receive a guide-  
14 outfitter license, if the person

15 (A) is in good standing at the time of issuance of the  
16 license; and

17 (B) has paid the guide-outfitter license fee and the com-  
18 mercial use permit fee;

19 (2) a class-A assistant guide shall receive a class-A guide-  
20 outfitter license, if the person

21 (A) is in good standing at the time of issuance of the  
22 license; and

23 (B) has paid the class-A guide-outfitter license fee;

24 (3) an assistant guide shall receive an assistant guide-out-  
25 fitter license, if the person

26 (A) is in good standing at the time of issuance of the  
27 license; and

28 (B) pays the assistant guide-outfitter license fee.

29 (d) Notwithstanding (c) of this section, the Department of Commerce

1 and Economic Development may issue a new license under AS 08.54.300 -  
2 08.54.590, without an additional fee, to a person licensed under former  
3 AS 08.54.010 - 08.54.240 before the next renewal period following the  
4 effective date of this Act, if the person satisfies the requirements for  
5 the license and the license is valid only for the same period for which the  
6 replaced license was issued.

7 \* Sec. 13. TRANSITION; OUTFITTERS. (a) Notwithstanding AS 08.54.350,  
8 as enacted by sec. 3 of this Act, a natural person is entitled to receive a  
9 guide-outfitter license if the person

10 (1) applies on a form provided by the Department of Commerce and  
11 Economic Development;

12 (2) registered a camp, cabin, or lodge under AS 16.05.787 during  
13 1988;

14 (3) provides evidence satisfactory to the Big Game Commercial  
15 Services Board that the person has engaged in the business of big game  
16 outfitting in 1986, 1987, and 1988;

17 (4) passes the guide-outfitter examination administered by the  
18 Big Game Commercial Services Board within one year after the effective date  
19 of this Act;

20 (5) pays the guide-outfitter license fee and the commercial use  
21 permit fee; and

22 (6) possesses a business license to provide guide-outfitting  
23 services.

24 (b) A guide-outfitter license issued under (a) of this section is for  
25 all purposes a license issued under AS 08.54.350, as enacted by sec. 3 of  
26 this Act.

27 (c) A person who satisfies (a)(1) - (3) of this section, holds a  
28 business license as a big game outfitter, and pays a license fee set by the  
29 Department of Commerce and Economic Development is entitled to receive an

1 interim outfitter license pending a final determination of a person's  
2 eligibility for a guide-outfitter license under (a) of this section. The  
3 right to receive and hold an interim outfitter license terminates on the  
4 earlier of

5 (1) the date of issuance of a guide-outfitter license to the  
6 person;

7 (2) a final determination under (a) of this section that the  
8 person is not eligible to receive a guide-outfitter license; or

9 (3) one year from the effective date of this Act.

10 (d) A person who holds an interim outfitter license, notwithstanding  
11 contrary provisions of AS 08.54, may provide transportation to, from, and  
12 in the field to big game hunters and supply other services in the field to  
13 big game hunters. The person may not provide guiding services. The person  
14 is responsible for paying to the Department of Commerce and Economic Devel-  
15 opment the big game conservation fee due under AS 16.05.344.

16 (e) A person who holds an interim outfitter license shall promptly  
17 report to the Department of Public Safety, division of fish and wildlife  
18 protection, but not later than 30 days after the violation, a violation of  
19 a state fish, game, or big game commercial services statute or regulation  
20 that the person reasonably believes was committed by a client or employee  
21 of the person.

22 (f) A person who holds an interim outfitter license may accompany or  
23 be present with a hunter at a base camp, cabin, or permanent lodge in  
24 connection with a big game hunt for compensation only if the person has  
25 furnished an affidavit to the Department of Public Safety, division of fish  
26 and wildlife protection, at least two weeks in advance. The person may not  
27 register more than two base camps. The affidavit must be signed by the  
28 person and must provide the following information:

29 (1) the specific location of the camp, cabin, or lodge;

1 (2) the number of big game hunters in each party that will use  
2 the camp, cabin, or lodge; and

3 (3) the kinds or species of big game that will be hunted.

4 (g) A person who furnishes an affidavit under (f) of this section  
5 shall notify the Department of Public Safety of the amount and kinds or  
6 species of big game taken by each hunter who uses the base camp, cabin, or  
7 permanent lodge to which the affidavit relates. Notice shall be given  
8 within 30 days after the game is taken. The Department of Public Safety  
9 shall provide the information received under this subsection to the Depart-  
10 ment of Fish and Game.

11 (h) A person who

12 (1) violates (e) of this section is guilty of a misdemeanor and  
13 upon conviction is punishable by a fine of not more than \$2,000 or by  
14 imprisonment for not more than one year, or by both; or

15 (2) falsifies an affidavit under (f) of this section is guilty  
16 of perjury under AS 11.56.200.

17 (i) In this section,

18 (1) "big game" and "field" have the meaning given in AS 08.54.-  
19 590, as enacted by sec. 3 of this Act;

20 (2) "base camp" does not include spike camp, fly camp, or over-  
21 night camp;

22 (3) "guiding" means accompanying or being present with a big  
23 game hunter in the field, personally or through an assistant, for compen-  
24 sation or with the intent or an agreement to receive compensation; "guid-  
25 ing" does not include

26 (A) providing transportation to or from the field, if the  
27 person providing transportation and the persons being transported do  
28 not stalk, pursue, track, kill, or attempt to kill big game during the  
29 transportation; or

1 (B) selling, leasing, or renting goods, if the transaction  
2 does not take place in the field;

3 (4) "outfitting" means the provision of services, other than  
4 guiding services, to big game hunters in the field for compensation.

5 \* Sec. 14. INITIAL APPOINTMENTS TO BIG GAME COMMERCIAL SERVICES BOARD.  
6 Notwithstanding AS 08.54.300(b), as enacted by sec. 3 of this Act, the  
7 initial appointments to the Big Game Commercial Services Board under

8 (1) AS 08.54.300(b)(4) may also be filled by the appointment of  
9 a master guide, registered guide, or a class-A assistant guide licensed  
10 under former AS 08.54.010 - 08.54.240 or a person who registered a camp,  
11 cabin, or lodge under AS 16.05.787 during 1988 and engaged in the business  
12 of big game outfitting in 1986, 1987, and 1988;

13 (2) AS 08.54.300(b)(5) may also be filled by the appointment of  
14 a person who engaged in the business of providing transportation to big  
15 game hunters in 1986, 1987, and 1988.

16 \* Sec. 15. TRANSITION. Litigation, hearings, investigations, and other  
17 proceedings pending under a law amended or repealed by this Act continue in  
18 effect and may be continued and completed notwithstanding an amendment or  
19 repeal provided for in this Act. Licenses, orders, and regulations issued  
20 or adopted under authority of a law amended or repealed by this Act remain  
21 in effect for the term issued or until revoked, vacated, or otherwise  
22 modified under the provisions of this Act.

23 \* Sec. 16. AS 08.54.010, 08.54.030, 08.54.035, 08.54.040, 08.54.045,  
24 08.54.050, 08.54.060, 08.54.070, 08.54.100, 08.54.110, 08.54.120, 08.54.-  
25 130, 08.54.140, 08.54.141, 08.54.150, 08.54.160, 08.54.170, 08.54.180,  
26 08.54.186, 08.54.190, 08.54.195, 08.54.200, 08.54.210, 08.54.220, 08.54.-  
27 230, 08.54.240; AS 16.05.370(b), 16.05.370(c), 16.05.407(e), 16.05.786, and  
28 16.05.787 are repealed.

29 \* Sec. 17. Sections 4, 6, 12, and 13, ch. 160, SLA 1988 are repealed.

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\* Sec. 18. This Act takes effect immediately under AS 01.10.070(c).

1 IN THE HOUSE

2 HOUSE BILL NO.  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act providing for retroactive extension of the  
7 termination date of the Task Force on Guiding and  
8 Game; and providing for an effective date."

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

10 \* Section 1. Section 14(d), ch. 160, SLA 1988, is repealed and reenact-  
11 ed to read:

12 (d) The task force terminates on the earlier of

13 (1) January 15, 1991; or

14 (2) the date of enactment into law of

15 (A) a licensing system for hunting guides and other  
16 persons who provide services to hunters for the purpose of  
17 facilitating the harvest of big game; and

18 (B) a management system for allocating rights of  
19 access to big game to licensed guides.

20 \* Sec. 2. Notwithstanding the qualifications for members of the Task  
21 Force on Guiding and Game set out in sec. 14(a), ch. 160, SLA 1988, the  
22 members of the task force on January 8, 1989, shall continue to serve until  
23 they resign or the task force is terminated.

24 \* Sec. 3. Sections 1 and 2 of this Act are retroactive to January 8,  
25 1989.

26 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).  
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# LAWS OF ALASKA

1988

**Source**

HCS CSSB 191(R1a) am II

**Chapter No.**

160

**AN ACT**

Relating to the Guide Board and big game guiding, transporting, outfitting, and hunting and establishing an interim task force on guiding and the commercial taking of big game; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 12.

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 16, 1988  
Actual Effective Date: Sections 1, 2, 5, 7 - 11, and 14  
take effect June 17, 1988; sections 4, 6, 12, 13, and  
15 take effect June 30, 1989; section 3 takes effect  
January 1, 1989

APPENDIX A

AN ACT

Relating to the Guide Board and big game guiding, transporting, outfitting, and hunting and establishing an interim task force on guiding and the commercial taking of big game; and providing for an effective date.

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

(20) Guide Board (AS 08.54.010) -- June 30, 1989 (1988).

\* Sec. 2. AS 08.54.040(a) is amended to read:

(a) Except as provided in AS 08.54.045, the board shall

(1) prepare, grade, and administer

(A) a written and oral examination of an applicant for a registered guide license that requires demonstration that the applicant is qualified generally to provide guided hunts and, in particular, to guide in each game management unit the applicant has selected; if an applicant demonstrates limited ability to read or write the English language, the entire examination shall be administered orally; and

(B) an oral examination of a registered or master guide who seeks an amendment of a game management unit certification; the examination must require demonstration that the guide is qualified to provide guided hunts in each new game management unit for which the guide seeks to be certified (EXAMINATIONS, WHICH MAY INCLUDE ORAL EXAMINATIONS OF APPLICANTS WHO DEMONSTRATE

LIMITED ABILITY TO READ OR WRITE THE ENGLISH LANGUAGE;

(2) determine qualifications of applicants for licenses and authorize the issuance of licenses to those who qualify;

(3) establish guide performance standards and regulate activity;

(4) compile, maintain, and publish an annual register of master and registered guides who have not been convicted of a violation of a state game or guiding statute or regulation; a guide listed in the register whose license is revoked or suspended shall be removed from the register while the guide's license is revoked or suspended;

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

(6) after a hearing, revoke, suspend, or deny renewal of a license in accordance with AS 08.54.200;

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

(8) meet at least twice annually, once in Anchorage and once in another municipality.

\* Sec. 3. AS 08.54.210 is amended to read:

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

(1) a master guide, registered guide, special guide, class

A assistant guide, or assistant guide to fail to timely report to the

Department of Public Safety, division of fish and wildlife protection, and in no event later than 30 days, a violation of a state fish, game, or guiding statute or regulation that the guide reasonably believes was committed by a client or an employee of the guide;

(2) a guide to commit or aid the commission of a violation of this chapter or of a state game or guiding statute or regulation or to permit the commission of a violation that the guide knows or reasonably believes is being or will be committed without attempting to prevent it, short of using force, and without reporting it;

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

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

(A) a guide; or

(B) an outfitter offering big game hunting services

[WITHOUT HOLDING A CURRENT VALID GUIDE LICENSE];

(5) a guide to intentionally obstruct or hinder or attempt to obstruct or hinder lawful hunting engaged in by a person who is not a client of the guide;

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

(7) an assistant guide to contract to conduct a guided hunt;

(8) an assistant guide to be in the field on a guided hunt except while employed and supervised by a registered or master guide.

(b) A person who violates (a)(1) - (5) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$2,000 (\$1,000) or by imprisonment for not more than one year, or by both, and the person's license may be revoked for a period

up to five years. However, a person who engages in guiding activity during the period for which the person's license is suspended or revoked under this chapter, or who violates (a)(6) - (8) of this section, is guilty of a felony punishable, upon conviction, by a fine of not more than \$5,000 and by imprisonment for not more than three years. In addition to punishment for a felony, all guns, fishing tackle, boats, aircraft, automobiles or other vehicles, camping gear and other equipment and paraphernalia used in, or in aid of, guiding activity engaged in during the period of suspension or revocation may be seized by persons authorized to enforce this chapter and may be forfeited to the state as provided under AS 16.05.195.

\* Sec. 4. AS 08.54.210 is repealed and reenacted to read:

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

(1) a master guide, registered guide, special guide, class A assistant guide, or assistant guide to fail to timely report to the Department of Public Safety, division of fish and wildlife protection, and in no event later than 30 days, a violation of a state fish, game, or guiding statute or regulation that the guide reasonably believes was committed by a client or an employee of the guide;

(2) a guide to commit or aid the commission of a violation of this chapter or of a state game or guiding statute or regulation or to permit the commission of a violation that the guide knows or reasonably believes is being or will be committed without attempting to prevent it, short of using force, and without reporting it;

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

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

(A) a guide; or

(B) an outfitter offering big game hunting services;

(5) a guide to intentionally obstruct or hinder or attempt to obstruct or hinder lawful hunting engaged in by a person who is not a client of the guide;

(f) a person for compensation or hire to transport a hunter to or from the field in an aircraft for which the person does not hold a current valid air taxi commercial operator (ATCO) operating certificate issued by the Federal Aviation Administration under 14 C.F.R. Part 135; in this paragraph, "for compensation or hire" means receiving any monetary consideration for the transportation, regardless of whether the consideration is directly attributable to the transportation; "for compensation or hire" does not include reimbursement for actual expenses incurred for aircraft fuel for the transportation;

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

(8) an assistant guide to contract to conduct a guided hunt;

(9) an assistant guide to be in the field on a guided hunt except while employed and supervised by a registered or master guide.

(b) A person who violates (a)(1) - (6) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both, and the person's license may be revoked for a period up to five years. However, a person who engages in guiding activity during the period for which the person's license is suspended or revoked under this chapter, or who violates (a)(7) - (9) of this section, is guilty of a felony punishable, upon conviction, by a fine of not more than \$5,000 and by imprisonment for not more than three years. In addition to punishment for a felony, all guns, fishing tackle, boats, aircraft,

1 automobiles or other vehicles, camping gear and other equipment and  
2 paraphernalia used in, or in aid of, guiding activity engaged in  
3 during the period of suspension or revocation may be seized by persons  
4 authorized to enforce this chapter and may be forfeited to the state  
5 as provided under AS 16.05.195.

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

7 (3) "guide" or "guiding" means accompanying or being pre-  
8 sent with a big game hunter in the field, personally or through an  
9 assistant, for compensation or with the intent or an agreement to  
10 receive compensation; "in the field" does not include a lawfully  
11 established base camp, cabin, or permanent lodge registered with the  
12 division of fish and wildlife protection under AS 16.05.787 or a boat  
13 with permanent living quarters; "guide" or "guiding" does not include

14 (A) providing transportation to or from the field, if  
15 the persons providing transportation and the persons being trans-  
16 ported do not stalk, pursue, track, kill, or attempt to kill big  
17 game during the transportation; or

18 (B) selling, leasing, or renting goods, if the trans-  
19 action does not take place in the field;

20 \* Sec. 6. AS 08.54.240(3) is amended to read:

21 (3) "guide" or "guiding" means accompanying or being pre-  
22 sent with a big game hunter in the field, personally or through an  
23 assistant, for compensation or with the intent or an agreement to  
24 receive compensation; "in the field" does not include a lawfully  
25 established [BASE CAMP,] cabin [,] or permanent lodge registered with  
26 the division of fish and wildlife protection under AS 16.6.787 or a  
27 boat with permanent living quarters; "guide" or "guiding" does not  
28 include

29 (A) providing transportation to or from the field, if

1 the persons providing transportation and the persons being trans-  
2 ported do not stalk, pursue, track, kill, or attempt to kill big  
3 game during the transportation; or

4 (B) selling, leasing, or renting goods, if the trans-  
5 action does not take place in the field;

6 \* Sec. 7. AS 08.54.240 is amended by adding a new paragraph to read:

7 (7) "base camp" does not include a spike camp, fly camp, or  
8 overnight camp.

9 \* Sec. 8. AS 16.05.370 is amended by adding new subsections to read:

10 (b) A person who sells big game tags shall give to each buyer a  
11 game report form provided by the department, to be completed and  
12 returned by the hunter after big game is taken. The department shall  
13 pay the cost of return postage for the report. The report must speci-  
14 fy the location, amount, and kinds or species of game taken.

15 (c) A person who transports big game from the field for compen-  
16 sation shall, within seven days after providing the transportation,  
17 notify the department of the amount and kinds or species of game  
18 transported.

19 \* Sec. 9. AS 16.05.407(d) is amended to read:

20 (d) A nonresident who violates (a) of this section, or who fails  
21 to furnish an affidavit under (b) or (e) of this section, is guilty of  
22 a misdemeanor and upon conviction is punishable by imprisonment for  
23 not more than one year, or by a fine of not more than \$5,000, or by  
24 both.

25 \* Sec. 10. AS 16.05.407 is amended by adding a new subsection to read:

26 (e) An applicant for a nonresident big game tag for the taking  
27 of moose or caribou shall first furnish to the state, on a form pro-  
28 vided by the state, an affidavit showing where the applicant will be  
29 hunting and what guiding, transportation, or other big game hunting

Chapter 160

services the applicant will be employing. A person who falsifies an affidavit under this subsection is guilty of perjury under AS 11.56.200.

\* Sec. 11. AS 16.05 is amended by adding new sections to read:

Sec. 16.05.786. DUTY OF BIG GAME TRANSPORTERS TO REPORT VIOLATIONS. (a) A person who transports a big game hunter to or from the field for compensation, or with the intent or an agreement to receive compensation, shall promptly report to the Department of Public Safety, division of fish and wildlife protection, and in no event later than 30 days, a violation of a state fish, game, or guiding statute or regulation that the person reasonably believes was committed by a client or employee of the person.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both.

Sec. 16.05.787. REGISTRATION OF BIG GAME HUNTING BASE CAMPS, CABINS, AND LODGES. (a) A person who is not licensed as a guide under AS 08.54 may accompany or be present with a hunter at a base camp, cabin, or permanent lodge in connection with a big game hunt and for compensation only if the person has not been convicted of violating a game law or regulation during the preceding five years and has furnished an affidavit to the Department of Public Safety, division of fish and wildlife protection, at least two weeks in advance. A person who is not licensed as a guide may not register more than two base camps. The affidavit must be signed by the person and must provide the following information:

- (1) the specific location of the camp, cabin, or lodge;
- (2) the number of big game hunters in each party that will use the camp, cabin, or lodge; and

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(3) the kinds or species of big game that will be hunted.

(b) A person who furnishes an affidavit under (a) of this section shall notify the Department of Public Safety of the amount and kinds or species of big game taken by each hunter who uses the base camp, cabin, or permanent lodge to which the affidavit relates. Notice shall be given within 30 days after the game is taken.

(c) The Department of Public Safety shall send the information received under (b) of this section and a copy of each affidavit under this section to the Department of Fish and Game.

(d) A person who falsifies an affidavit under this section is guilty of perjury under AS 11.56.200.

\* Sec. 12. AS 16.05.787(a) is amended to read:

(a) A person who is not licensed as a guide under AS 08.54 may accompany or be present with a hunter at a [BASE CAMP,] cabin [,] or permanent lodge in connection with a big game hunt and for compensation only if the person has not been convicted of violating a game law or regulation during the preceding five years and has furnished an affidavit to the Department of Public Safety, division of fish and wildlife protection, at least two weeks in advance. The affidavit must be signed by the person and must provide the following information:

- (1) the specific location of the [camp,] cabin [,] or lodge;
- (2) the number of big game hunters in each party that will use the [CAMP,] cabin [,] or lodge; and
- (3) the kinds or species of big game that will be hunted.

\* Sec. 13. AS 16.05.787(b) is amended to read:

(b) A person who furnished an affidavit under (a) of this section shall notify the Department of Public Safety of the amount and

Chapter 160

1 kinds or species of big game taken by each hunter who uses the (BASE  
2 CAMP,) cabin (.) or permanent lodge to which the affidavit relates.  
3 Notice shall be given within 30 days after the game is taken.

4 \* Sec. 14. TASK FORCE ON GUIDING AND GAME. (a) The interim task force  
5 on the Guide Board and the commercial taking of big game is established  
6 under the jurisdiction of the legislative council. The task force consists  
7 of the commissioners of fish and game, commerce and economic development,  
8 and public safety, or their designees; two members of the senate appointed  
9 by the president of the senate and two members of the house of representa-  
10 tives appointed by the speaker of the house, of whom only one member from  
11 each body may have a financial interest in any business involving or relat-  
12 ed to the commercial taking of game; and six members appointed by the  
13 governor as follows: one member of the Guide Board; one big game guide  
14 licensed under AS 08.54 who is not a member of the Guide Board; and two  
15 persons engaged in a business, other than guiding, that includes transport-  
16 ing big game hunters to and from the field, but only one of whom may be an  
17 air taxi operator; and two public members, neither of whom has a financial  
18 interest in any business involving or related to the commercial taking of  
19 game. The governor shall appoint at least one member from each judicial  
20 district in the state. The members shall elect a person to chair the task  
21 force.

22 (b) The task force shall review the operations of the Guide Board and  
23 shall study problems and issues concerning the commercial taking of big  
24 game in the state and the businesses or professions that provide goods and  
25 services to big game hunters in the state. The task force shall submit to  
26 the legislative council, not later than January 15, 1989, a report on its  
27 findings and proposed legislation to address the problems and issues cover-  
28 ed in the report.

29 (c) A subpoena requiring the attendance of a witness before the task  
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1 force may be issued by the person chairing the task force if authorized to  
2 do so by a majority of the membership of the task force. The provisions of  
3 AS 24.25.020 - 24.25.080 apply to subpoenas issued under this subsection  
4 and to witnesses called by the task force.

5 (d) The task force terminates January 15, 1989.

6 \* Sec. 15. AS 08.54.240(7) is repealed.

7 \* Sec. 16. Sections 1, 2, 5, 7 - 11, and 14 of this Act take effect  
8 immediately under AS 01.10.070(c).

9 \* Sec. 17. Sections 4, 6, 12, 13, and 15 of this Act take effect  
10 June 30, 1989.

11 \* Sec. 18. Section 3 of this Act takes effect January 1, 1989.  
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Official Business

# Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V  
Juneau, Alaska 99811

Phone:  
(907) 465-3764  
465-3765

Letter of Intent  
For  
HCS CS SB 191 (Rules)

It is the intent of the Legislature that the task force established under the provisions of SB 191 have full powers to investigate and establish recommendations.

Under the Alaska Constitution, fish and game resources are the common property of the people of Alaska, to be managed by the state in trust for the people's use. During all deliberations of the task force relating to regulating the commercial use of game, the first and highest priority of the task force shall be protection of the game resource. In this context, the task force shall examine how the commercial taking of big game by both residents and nonresidents conforms with the needs of all Alaskans.

Currently, there are numerous types of big game hunting services being provided in Alaska by various commercial operators. The task force shall examine this situation and make recommendations for the appropriate role of guides, gear providers, air taxi operators and other transporters in providing commercial hunting services.

Other states and Canadian provinces have experienced similar commercial hunting pressures and problems. In an effort to assure that Alaska not duplicate the mistakes of others, the task force should obtain as much information as possible about the problems these other jurisdictions have experienced. If solutions were found for problems similar to existing problems in this state, the task force shall review those solutions and recommend accordingly for Alaska.

The Alaska Supreme Court will soon decide *Owsichek v. the State of Alaska*, dealing with the constitutionality of restricted guide areas. The task force shall analyze this decision, and recommend methods of accommodating the court's decision.

The task force shall work closely with the Department of Fish and Game and the Board of Game to create a link between the commercial take of big game and game management, for the protection and benefit of all user groups.

The task force shall examine the potential effects of adding other species to the guide-required list.

APPENDIX B

The task force shall examine the licensing of transporters, and make recommendations as to whether such a system ought to be renewed, and, if so; under what conditions.

The Legislative Budget and Audit Committee completed audits of the Guide Board in 1985 and 1987. The task force shall review the audits and recommend what provisions shall be implemented. Specifically, the task force shall analyze if the guide board is functioning at a level that ensures that the present allocation system is fair and is following the Administrative Procedures Act.

The legislature recognizes that the current big game guide system in Alaska is dependent on the restricted guide area concept for its success. Accordingly, the task force shall examine all aspects of this system, and make recommendations pertaining to its openness and accessibility, including to the question of selling or otherwise transferring the use of restricted guide areas. The task force shall also examine whether the state should lease or permit commercial use areas, or in some other manner establish a restricted use "concessionaire" approach to commercial game management. Throughout these deliberations, the task force shall review the compatibility of the current restricted area system, or any such system proposed, with the state's game allocation system.

The task force shall analyze the joint use concept and supporting agreements between guides in joint use areas, and gauge whether these agreements are in the best interest of all game users, as well as in the best interest of the game resource. In doing so, the task force shall investigate whether one consistent policy for determining guide areas is appropriate, the goal being that all areas are treated equally. The task force shall also examine whether rural residents from remote communities are being afforded an adequate and equal opportunity to participate in the guiding system.

The violation of statutes regulating almost all other professions in Alaska is generally a misdemeanor offense, whereas the act of illegal guiding is a felony offense. The task force shall review this section of law, determine whether this is proper, and make recommendations for any appropriate changes.

The task force shall investigate and make recommendations concerning the propriety of fish and wildlife protection officers, or other state employees whose responsibilities include managing game resources or enforcing the state's guiding and game management laws, holding guide licenses or otherwise participating in the commercial taking of game.

The legislature recognizes that the role of federal agencies in managing and permitting commercial uses of federal parks, reserves,

and other federal lands has a significant direct impact in how the state's guide laws are monitored and enforced. The task force is directed to examine the role of federal agencies in monitoring and permitting these activities.

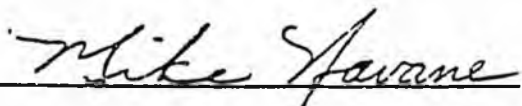
The legislature recognizes that hunting, flying and other travel in Alaska involves certain inherent risks. The task force shall review the issue of differing safety and insurance requirements for air transportation and make a recommendation on the establishment of minimal insurance and safety requirements for guides, lodge owners, and others who are not now regulated.

The task force should review the possibility of bonding requirements for providers of big game hunting services.

The task force should examine all aspects of a head tax, the problems with its use in the past, and what would be the ramifications to game management if it were reinstated.

The task force should work to clarify the definitions of "camp", "in the field", and "big game hunting services". The task force should describe which commercial providers should be allowed in "camps" and "in the field." "Compensation", and "monetary consideration" should also be further defined and explained by the task force. The task force should also provide further explanation of what constitutes a "boat with permanent living quarters."

The task force should also look at the use of dog sleds in big game hunts, and when dogs should be allowed in camps.



Rep. Mike Navarre, Chair  
House Rules Committee  
May 9, 1988

NOTICE: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring typographical or other formal errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, in order that corrections may be made prior to permanent publication.

THE SUPREME COURT OF THE STATE OF ALASKA

KENNETH D. OWSICHEK,  
Appellant,  
v.  
STATE OF ALASKA, GUIDE  
LICENSING AND CONTROL BOARD,  
Appellee.

File No. S-1650

O P I N I O N

[No. 3389 - October 21, 1988]

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Milton Souter, Judge.

Appearances: Charles E. Tulin, Anchorage, for Appellant. Michael G. Hotchkin and Sarah E. McCracken, Assistant Attorneys General, Anchorage, Ronald W. Lorensen, Acting Attorney General, Juneau, for Appellee.

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton, and Moore, Justices.

RABINOWITZ, Chief Justice.

Clerk of the Appellate Courts

NOTICE TO COUNSEL: This opinion will be re-issued in the first and fourth of 12:30 p.m. Alaska time of the date indicated. It is a privilege to counsel of record in relation to the release time. It should be in writing persons other than your counsel in all case of the outcome.

We are called upon to decide whether two statutes, AS 08.54.040(7) & .195, comport with article VIII, section 3 of the

Alaska Constitution. These statutes authorize the Guide Licensing and Control Board to grant hunting guides "exclusive guide areas," geographic areas in which only the designated guide may lead hunts and from which all other guides are excluded. Licensed hunters, including other guides, may hunt recreationally in these areas, but only the holder of the exclusive guide area may lead hunts professionally.

I.

In 1973 the legislature created the Guide Licensing and Control Board ("GLCB" or "the Board"). Ch. 17, § 1, SLA 1973. This act set forth the composition, powers and duties of the Board, established guidelines for different classes of guide licenses, defined unlawful acts, and provided for the disciplining of guides. Id. It also authorized the Board generally to "regulate activity" of guides, AS 08.54.040(a)(3), and to adopt regulations "required by this chapter or reasonably necessary for its administration." Id. at 08.54.050. The legislative history reveals that the purposes of the act were "to protect fish and game management" and "to get competent people as guides in Alaska." Alaska Legislative Committee Minutes Microfiche No. 37, House Judiciary Committee, H.B. 1, at 20 (Feb. 2, 1973).

One of the first activities of the Board was to establish a scheme of "exclusive guide areas" (EGAs) and "joint use areas." Under this system, a guide would be able to register his

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camp and be entitled to exclusive guiding privileges in a designated area surrounding it. "Joint use areas" would be assigned where the areas used by two or more guides overlapped.<sup>1</sup> The Board first voted in April 1974 to implement this scheme for Game Management Units 16 and 20.<sup>2</sup> Shortly thereafter, in July 1974, the Board voted to extend the program to Unit 8 (Kodiak Island).

For the following year, the Board considered applications for EGAs but took no action. In July 1975, the Board granted dozens of exclusive and joint use areas in the three Units for which the regulation was passed. The Board further resolved at that time to extend the program to eleven more Units, including Unit 19. In January 1976, the Board voted to grant EGAs to qualified guides anywhere in the state. Applications were to be based on "occupancy, use, financial value, and such other qualifications as the Board may prescribe." The Board set

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1. EGAs and joint use areas will be referred to collectively as EGAs.

2. The Board of Game has divided the state into twenty-six Game Management Units, primarily for purposes of establishing hunting seasons and bag limits for different species. For these purposes, many Units are divided into several subunits with different applicable regulations. See AS 16.05.255; 5 AAC 78.001-.600, 80.001-.600, 83.001-.600, 86.001-.910, 88.001-.910. The Guide Licensing and Control Board has adopted these Units for purposes of licensing hunting guides. 12 AAC 38.200(b) (Eff. 6/28/74). Each licensed guide may be certified to practice in up to three Units. 12 AAC 38.200(d) (Eff. 6/28/74). Unit 16 is in South Central Alaska, near Anchorage, and Unit 20 occupies a large part of Interior Alaska, including Fairbanks.

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a deadline of November 1, 1976, for receipt of applications for EGAs. The Board began granting EGAs in Units other than 8, 16 and 20 in December 1976, starting with Units 23-26. EGAs for other Units were granted gradually over the following months.

The Board conducted all of this activity without specific statutory authorization, relying only on the general grant of regulatory power in the 1973 legislation. In 1976 the legislature enacted AS 08.54.040(a)(8) (now AS 08.54.040(a)(7)), which authorized the Board to:

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

Ch. 133, § 1, SLA 1976. This provision took effect January 1, 1977. Id. at § 5. The legislative history reveals that the intent of this section was to ratify the Board's EGA program. Transcript of Senate Resources Committee Hearing on S.B. 661, at 1, 14-15 (March 12, 1976); Transcript of House Resource Committee Hearing on S.B. 661, at 33-34 (April 27, 1976).

Finally, in 1986 the legislature enacted AS 08.54.195.<sup>3</sup> This statute for the first time imposed procedures and criteria

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3. Alaska Statute 08.54.195 provides:

(footnote continued)

on the Board with respect to the EGA program. This reform was

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(footnote continued)

Restricted guide areas. (a) Under AS 08.54.040(a)(7), the board may establish and assign restricted guide areas for master guides or registered guides. The board shall adopt regulations that establish uniform and consistent criteria, including a point system, to be used by the board when it establishes and assigns a restricted guide area.

(b) The board shall consider the following factors before it assigns a restricted guide area:

(1) the extent to which the guide who has applied for the area has guided in the game management unit in which the area is located;

(2) the extent to which the guide occupied and invested in the area;

(3) the effects, including the economic effect, on other guides that would result from creation of the area;

(4) big game populations in the area;

(5) the land ownership status of the area; and

(6) other relevant facts or circumstances.

(c) The board may adopt regulations limiting the number of clients with which a guide may contract for hunts in a restricted guide area used by more than one guide.

(d) Unless the board determines after a public hearing that it is not in the public interest to do so, the board may transfer a restricted guide area to a person qualified for assignment who has been recommended by the guide to whom the area is assigned, or by a person authorized to represent the guide, if the recommendation is made

(1) after five years have elapsed from the date of the assignment of the guide area; or

(2) during the first five years after the date of assignment and the guide has died or suffered a major disability, as defined by the board.

(footnote continued)

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enacted in response to a "sunset report" on the GLCB by the Division of Legislative Audit, which was harshly critical of the Board's implementation of the EGA program.<sup>4</sup> See Division of Legislative Audit, A Performance Report on the Department of Commerce and Economic Development Guide Licensing and Control Board, Audit Control No. 08.01253-86-R (Nov. 21, 1985).

## II.

Kenneth D. Cwsichek is a registered guide who was licensed to lead hunts in Game Management Units 17, 18 and 19 in February 1976.<sup>5</sup> He alleges that he had worked as an assistant guide in this area from 1972 to 1976. He claims that in January 1976, upon passing his guide license examination, he invested

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(footnote continued)

(e) A guide may not sell or lease a restricted guide area. A guide may sell or otherwise transfer a lodge, camp, or other lawful improvement to property located in a restricted guide area. Sales price may not exceed fair market value.

4. The 1986 legislation also modified AS 08.54.045(9) in response to the sunset report. Specifically, the legislation (1) renumbered it subsection .045(7), (2) required "an equitable, reasonable, and consistent procedure" (emphasized language added in 1986), and (3) provided that "preference may be given" to local resident guides (instead of shall). Ch. 71, § 6, SLA 1986.

5. Units 17, 18 and 19 occupy a large area overlapping parts of Southwest, Western and Interior Alaska. See 5 AAC 83.005(d) (Eff. 7/5/85), 86.005(a) (Eff. 7/5/85), 88.005(b) (Eff. 7/5/85).

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\$300,000 to build a lodge and several cabins together with other facilities for a full-scale guiding operation on Lake Clark. He also claims to have spent \$150,000 on four aircraft to fly in clients.

Owsichek's licensing and concurrent investments occurred at approximately the same time the GLCB decided to extend the EGA program on a statewide basis.<sup>6</sup> Accordingly, Owsichek submitted an application for EGAs in Units 17 and 19 before the November 1, 1976, deadline established by the Board. The Board considered applications for EGAs in Units 17 and 19 in its December 1977 meeting. Owsichek's application was denied on the ground that he had not submitted "evidence of contracts for guided hunts in the area for two of the five years preceding the application."

Owsichek petitioned for review of this decision. In November 1978, the Attorney General's office found that, based on contracts submitted for hunts in 1976, 1977 and 1978, he was qualified to receive an EGA in Units 17 and 19, and recommended that the Board adopt this decision. In its December 1978 meeting, the Board resolved "that the portion of Mr. Owsichek's

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6. As discussed above, the Board had decided to grant EGAs in Unit 19 in July 1975, but did not vote to extend the program to the remainder of the state, including Units 17 and 18, until January 1976, the month Owsichek passed his guide licensing exam and allegedly began building his improvements.

application that is not in conflict with presently granted gide [sic] areas be allowed. That no portion of the application that overlaps or is presently in joint use be granted." By letter dated February 5, 1979, the Board informed Owsichek of its decision and assigned him area 19:33, in Unit 19. Owsichek objected to this decision because he was unable to land his planes within the areas granted to him, rendering them "unhunnable."

On April 6, 1979, Owsichek filed a complaint in superior court challenging the Board's actions. His amended complaint alleged that: (1) prior to January 1, 1977, the Board lacked authority to promulgate regulations creating EGAs; (2) the actions of the Board violated due process and equal protection under the federal and state constitutions; (3) the actions of the Board were an unconstitutional taking of property; (4) AS 08.54.040(a)(8) was an unconstitutional delegation of authority because of the lack of standards; (5) the statutes and regulations constituted an unlawful impairment of contracts under the Alaska Constitution; (6) the regulations did not comply with what standards existed in the statute; and (7) he suffered damages. By way of relief Owsichek sought a declaration that the Board's assigning of EGAs is unconstitutional and that he is entitled to recover damages against the state in an amount in excess of \$100,000 as a consequence of the state's illegal and unconstitutional actions.

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After considering the briefs and hearing oral arguments,<sup>7</sup> the superior court affirmed the actions of the Board, holding "that the Board did not commit any error or abuse of discretion, that its regulations comport with the governing statutes, and that no constitutional infirmity exists in the statutes, regulations or Board decision."

This appeal followed.<sup>8</sup>

### III.

#### A.

Owsichek argues that the EGA statutes and regulations violate the common use clause of the Alaska Constitution, which provides:

Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

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7. Before considering the case on the merits, the superior court had dismissed the action as an untimely appeal. This court reversed and remanded, holding that the claim for declaratory relief should have been treated as an independent action rather than an appeal, and that due to surprise and excusable neglect the time limit for appeals should have been relaxed as to the claims for damages and an injunction. *Owsichek v. State, Guide Licensing and Control Board*, 627 P.2d 616 (Alaska 1981).

8. After the parties filed their initial briefs, we requested supplemental briefing on the question of whether AS 08.54.040(7) and AS 08.54.195 violated article VIII, section 3, of the Alaska Constitution.

Alaska Const., art. VIII, § 3. The state argues that this clause is a broad grant of authority to the state to manage these resources, and that it places no limitations on this authority greater than those contained in other constitutional provisions, such as equal protection.<sup>9</sup>

We observe initially that, in guaranteeing people "common use" of fish, wildlife and water resources, the framers of the constitution clearly did not intend to prohibit all regulation of the use of these resources. Licensing requirements, bag limits, and seasonal restrictions, for example, are time-honored methods of conserving the resources that were respected by delegates to the constitutional convention. Questions presented by this case concern the type and extent of permissible regulation consistent with common use.

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9. The state also argues that Owsichek has no standing to challenge the system as it existed before January 1, 1977, when AS 08.54.040(1)(7) went into effect, because the Board did not establish any EGAs in Owsichek's Units before that date. In light of our holding that Owsichek is not entitled to damages, see infra Part IV, we need not address this issue. The declaratory relief to which he is currently entitled is unaffected by the date on which he attained standing.

The state does not argue that Owsichek lacks standing under the common use clause. We note that we would reject such an argument. We believe that a professional hunting guide's "use" of the wildlife resource is sufficiently direct that he falls within the protection of the common use clause. See infra note 15.

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This court has never considered these questions before. However, in four cases, we have indicated an intent to apply the common use clause in a way that strongly protects public access to natural resources. First, with respect to article VIII generally, we have written, "A careful reading of the constitutional minutes establishes that the provisions in article VIII were intended to permit the broadest possible access to and use of state waters by the general public."<sup>10</sup> Wernberg v. State, 516 P.2d 1191, 1198-99 (Alaska 1973). Given the text of the common use clause, the same policy should apply to wildlife as well.

In CWC Fisheries v. Bunker, 755 P.2d 1115 (Alaska 1988), we addressed the question of whether a state tidelands grant included an exclusive right of fishery, or whether it was subject to a public trust easement. In holding the latter, we relied in part on the common use clause. While specifically declining to determine whether this clause imposed a higher duty than that imposed by common law public trust principles, id. at

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10. Similarly, it has been stated:

The common use clause necessarily contemplates that resources will remain in the public domain, and will not be ceded to private ownership. Since the right of common use is guaranteed expressly by the constitution, it must be viewed as a highly important interest running to each person within the state.

State v. Ostrosky, 667 P.2d 1184, 1196 (Alaska 1983) (Rabinowitz, J., dissenting).

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1120 n.10, we stated, "At least in the absence of some clear evidence to the contrary, we will not presume that the legislature intended to take an action which would, on its face, appear inconsistent with the plain wording of this constitutional mandate." Id. at 1120.

In State v. Ostrosky, 667 P.2d 1184 (Alaska 1983), appeal dismissed, 467 U.S. 1201, 81 L. Ed. 2d 339 (1984), we addressed the constitutionality of limited entry fishing. Limited entry fishing bears an obvious similarity to the EGA scheme in that both place restrictions on the commercial harvesting of a natural resource by giving a special status to a limited number of licensees. In Ostrosky we stated:

[W]e have difficulty squaring the section 3 reservation of fish to the people for common use with a system which grants an exclusive right to fish to a select few who may continue to exercise that right season after season. We accept, therefore, at least for the purposes of this case, the proposition that limited entry is inconsistent with the command of article VIII, section 3.

Id. at 1189. In Ostrosky we held that the Limited Entry Act was not unconstitutional because of a 1972 constitutional amendment explicitly permitting limited entry to fisheries, notwithstanding section 3. Id. at 1190.

In a subsequent limited entry fishing case, Johns v. Commercial Fisheries Entry Comm'n, 758 P.2d 1256 (Alaska 1988), we stated:

In State v. Ostrosky, 667 P.2d 1184 (Alaska 1983), we noted that there is a tension

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between the limited entry clause of the state constitution and the clauses of the constitution which guaranty open fisheries. [Citing sections 3 and 15 of article VIII] We suggested that to be constitutional, a limited entry system should impinge as little as possible on the open fishery clauses consistent with the constitutional purposes of limited entry, namely, prevention of economic distress to fishermen and resource conservation.

Id. at 1266.

Since there is no constitutional amendment authorizing EGAs, we must in this case address a common use question similar to that which was not addressed in Ostrosky. We do so, however, in light of our observations in Wernberg, CWC Fisheries, Ostrosky, and Johns that the common use clause was intended to guarantee broad public access to natural resources.

B.

We begin by examining constitutional history to determine the framers' intent in enacting the common use clause. This was a unique provision, not modeled on any other state constitution. Its purpose was anti-monopoly. This purpose was achieved by constitutionalizing common law principles imposing upon the state a public trust duty with regard to the management of fish, wildlife and waters.<sup>11</sup>

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11. Responding to a question about this provision on  
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The framers' reliance on historic principles regarding state management of wildlife and water resources is evident from a written explanation in the committee materials for the term "reserved to the people for common use." This discussion also highlights an intent to prohibit "exclusive grants or special privilege[s]."

Ancient traditions in property rights have never recognized that a private right and title can be acquired by a private person to wildlife in their natural state or to water in general. The title remained with the sovereign, and in the American system of government with its concept of popular sovereignty this title is reserved to the people or the state on behalf of the people. The expression "for common use" implies that these resources are not to be subject to exclusive grants or special privilege as was so frequently the case in ancient royal tradition. Rather rights to use are secured by the general laws of the state. In all English and American legal systems ownership of water cannot be asserted, rights acquire only to the use of water. Once wildlife is captured and removed from their natural state possessory right accrues to the captor, provided that the wildlife was captured in conformity with provisions of law.

Alaska Constitutional Convention Papers, Folder 210, paper prepared by Committee on Resources entitled "Terms" (emphasis

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(footnote continued)

the floor of the convention, a member of the Resources Committee explained, "The language here has a lot of history behind it. . . . The language in this section harks back to the old tradition whereby wildlife in its natural state was in the presumed ownership of the sovereign until reduced to possession."

<sup>4</sup> Proceedings of the Alaska Constitutional Convention 2492 (Jan. 18, 1956).

added, except to "use"). Because an EGA is clearly a type of monopoly, "exclusive grant," or at least a "special privilege," this history strongly suggests that the statutes at issue here are unconstitutional. However, this history also states that "rights to use are secured by the general laws of the state," clearly giving the legislature some leeway in regulating use of the resources.

The state finds support for its position in a debate that occurred at the convention over registered trap lines. This debate is significant because, like EGAs, registered trap lines would allow a prior existing user to exclude newcomers from the privilege of harvesting the wildlife resource. On the floor of the convention, a delegate asked whether the common use clause would prohibit registered trap lines, and the spokesman for the Resources Committee responded that it would be "arguable." 4 Proceedings of the Alaska Constitutional Convention 2462-63 (Jan. 17, 1956). In response to this concern, the Resources Committee inserted language in the commentary to the common use clause authorizing registered trap lines: "This provision does not apply to the domestication of fur-bearing animals or other animals subject to intensive culture, to fish in private ponds, or to registered trap lines if authorized by law." 6 Proceedings of the Alaska Constitutional Convention app. V, at 98 (Commentary on Article on State Lands and Natural Resources, Jan. 16, 1956)

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(emphasized language added after first draft; cf. id. at 83 (Dec. 16, 1955)).

Resolution of the trap line issue begs the question in the instant case. One might argue that addition of the language excluding registered trap lines from the effect of the common use clause was intended to authorize the legislature to enact this type of regulation generally, and that the reasoning should extend to EGAs. However, the language in the commentary is highly specific, which more likely suggests that the common use clause would prohibit all similar regulation, with registered trap lines as a narrow exception in response to the political pressures of the moment.

In a discussion about fishing in lakes, the Constitutional Convention underscored its intent that the public retain broad access to fish, wildlife and water resources, and that these resources not be the subject of private grants. In floor debates, a question arose about the status of a natural lake falling within the boundaries of someone's private property. The delegates agreed that the common use clause guaranteed the public's right to use the lake for fishing, although it did not authorize a trespass across the landowner's property to get to the lake. 4 Proceedings of the Alaska Constitutional Convention 2460 (Jan. 17, 1956). The Convention made it clear that only fish in small private ponds may be owned free of the public's right of access. See id. at 2460-61; 6 Proceedings of the Alaska

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Constitutional Convention app. V, at 98 (Commentary on Article on State Lands and Natural Resources, Jan. 16, 1956). This confirms the view of the common use clause and the public trust expressed in CWC Fisheries v. Bunker, 755 P.2d 1115 (Alaska 1988), holding that a grant of a fee interest in tidelands remains impressed with a public trust easement. It also reinforces our conclusion that grants of exclusive rights to harvest natural resources listed in the common use clause should be subjected to close scrutiny.

C.

As we have noted, the drafters of the common use clause apparently intended to constitutionalize historic common law principles governing the sovereign's authority over management of fish, wildlife and water resources. A review of the history of wildlife law will therefore shed further light on the central issue in this case.

The Supreme Court traced the history of wildlife law from its roots in ancient Rome through its English common law development and transfer to this country in Geer v. Connecticut, 161 U.S. 519, 522-29, 40 L.Ed. 793, 794-97 (1896). In that case, the Court affirmed the defendant's conviction, upholding a state statute forbidding transportation of certain game birds killed in Connecticut across state lines. The Court noted that in England, the right to hunt and fish "[was] vested in the King alone and

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from him derived to such of his subjects as [had] received the grants of a chase, a park, a free warren, or free fishery." Id. at 527, 40 L.Ed. at 796 (quoting 2 W. Blackstone, Commentaries \*410). As a recent authority explains:

Stripped of its many formalities, the essential core of English wildlife law on the eve of the American Revolution was the complete authority of the king and Parliament to determine what rights others might have with respect to the taking of wildlife.

M. Bean, The Evolution of National Wildlife Law 12 (rev. ed. 1983).

The Geer court asserted that this authority to regulate taking of wildlife passed to the states upon separation from England. 161 U.S. at 528, 40 L.Ed. at 796. However, unlike the authority vested in the King, the authority of the states, with their guarantees of democratic government, was not plenary.

Whilst the fundamental principles upon which the common property in game rests have undergone no change, the development of free institutions has led to the recognition of the fact that the power or control lodged in the state, resulting from this common ownership, is to be exercised like all other powers of government as a trust for the benefit of the people, and not as a prerogative for the advantage of the government as distinct from the people, or for the benefit of private individuals as distinguished from the public good.

Id. at 529, 40 L.Ed. at 797 (emphasis added). The Court held that the state's "ownership" of wildlife, in trust for the people, authorized the statute at issue in that case. Id.

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The framers of the common use clause probably relied heavily on Geer. The following statement from the constitutional papers, as quoted above, closely tracks the reasoning of Geer:

The title remained with the sovereign, and in the American system of government with its concept of popular sovereignty this title is reserved to the people or the state on behalf of the people. The expression "for common use" implies that these resources are not to be subject to exclusive grants or special privilege as was so frequently the case in ancient royal tradition.

Alaska Constitutional Convention Papers, Folder 210, paper prepared by Committee on Resources entitled "Terms."

Thus, common law principles incorporated in the common use clause impose upon the state a trust duty to manage the fish, wildlife and water resources of the state for the benefit of all the people.<sup>12</sup> We have twice recognized this duty in our prior

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12. The Court overruled Geer's state ownership doctrine in Hughes v. Oklahoma, 441 U.S. 322, 60 L. Ed. 2d 250 (1979). That case involved facts almost identical to Geer: the Oklahoma statute at issue forbade the export of minnows taken from the waters of the state. See id. at 323, 60 L. Ed. 2d at 254. The Court struck down the statute as violative of the commerce clause. Id. at 338, 60 L. Ed. 2d at 263. The Court found the state ownership doctrine to be a legal fiction that created anomalies and did not conform to "practical realities." Id. at 335, 60 L. Ed. 2d at 261. Nothing in the opinion, however, indicated any retreat from the state's public trust duty discussed in Geer. Indeed, the Court stated, "[T]he general rule we adopt in this case makes ample allowance for preserving, in ways not inconsistent with the Commerce Clause, the legitimate state concerns for conservation and protection of wild animals underlying the 19th century legal fiction of state ownership." Id. at 335-36, 60 L. Ed. 2d at 261. As one U.S. District Court

(footnote continued)

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decisions. In Metlakatla Indian Community, Annette Island Reserve v. Egan, 362 P.2d 901, 915 (Alaska 1961), aff'd, 369 U.S. 45, 7 L. Ed. 2d 562 (1962), we stated:

These migrating schools of fish, while in inland waters, are the property of the state, held in trust for the benefit of all the people of the state, and the obligation and authority to equitably and wisely regulate the harvest is that of the state.

(Emphasis added.) Similarly, in Herscher v. State, Department of Commerce, 568 P.2d 996, 1003 (Alaska 1977), we noted that the state acts "as trustee of the natural resources for the benefit of its citizens."

The extent to which this public trust duty, as constitutionalized by the common use clause, limits a state's discretion in managing its resources is not clearly defined. The state argues that it imposes no limit at all. While

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(footnote continued)

noted in a post-Hughes case:

Under the public trust doctrine, the State of Virginia and the United States have the right and the duty to protect and preserve the public's interest in natural wildlife resources. Such right does not derive from ownership of the resources but from a duty owing to the people.

In re Steuart Transp. Co., 495 F. Supp. 38, 40 (E.D. Va. 1990) (allowing federal and state government to recover damages for migratory waterfowl killed in oil spill).

After Hughes, the statements in the Alaska Constitutional Convention regarding sovereign ownership, quoted supra, are technically incorrect. Nevertheless, the trust responsibility that accompanied state ownership remains. 3399

acknowledging that the common use clause constitutionalizes the state's trust duty, the state asserts, "The sovereign's power to allow and control use of the resources is broad, and restricted only by other constitutional limitations such as equal protection." This assertion clearly overstates the extent of the state's authority under the public trust duty and the common use clause.

First, as noted above, this court has stated in at least four cases that the common use clause is intended to provide independent protection of the public's access to natural resources. See Johns v. Commercial Fisheries Entry Comm'n, 758 P.2d 1256, 1266 & n.12 (Alaska 1988); CWC Fisheries v. Bunker, 755 P.2d 1115, 1120 (Alaska 1988); State v. Ostrosky, 667 P.2d 1184, 1189, 1191 (Alaska 1983), appeal dismissed, 467 U.S. 1201, 81 L. Ed. 2d 339 (1984); Wernberg v. State, 516 P.2d 1191, 1198-99 (Alaska 1973); see also Ostrosky, 667 P.2d at 1196 (Rabinowitz, J., dissenting).

Second, under the state's interpretation, the common use clause would be a nullity. "It is a well accepted principle of judicial construction that, whenever reasonably possible, every provision of the Constitution should be given meaning and effect, and related provisions should be harmonized." Park v. State, 528 P.2d 785, 786-87 (Alaska 1974). To give meaning and effect to the common use clause, it must provide protection of

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the public's use of natural resources distinct from that provided by other constitutional provisions.

Third, the history of the common use clause, as noted above, reveals an anti-monopoly intent to prohibit "exclusive grants" and "special privilege[s]," wholly apart from the limits imposed by other constitutional provisions.

Finally, cases applying the public trust doctrine in navigable waters have frequently struck down state actions in violation of the trust without any reference to either federal or state constitutions. A good example is the lodestar of American public trust law, Illinois Central Railroad Co. v. Illinois, 146 U.S. 387, 36 L.Ed. 1018 (1892). In that case, the Illinois legislature purported to grant to a railroad more than 1,000 acres of land underlying Lake Michigan in the harbor of Chicago. The Court applied the doctrine of the public trust in navigable waters to uphold the legislature's later revocation of the grant:

A grant of all the lands under the navigable waters of a State has never been adjudged to be within the legislative power; and any attempted grant of the kind would be held, if not absolutely void on its face, as subject to revocation. The State can no more abdicate its trust over property in which the whole people are interested . . . than it can abdicate its police powers in the administration of government and the preservation of the peace.

Id. at 453, 36 L.Ed. at 1043.

In light of this historical review we conclude that the common use clause was intended to engraft in our constitution

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certain trust principles guaranteeing access to the fish, wild-life and water resources of the state. The proceedings of the Constitutional Convention, together with the common law tradition on which the delegates built, convince us that a minimum requirement of this duty is a prohibition against any monopolistic grants or special privileges. Accordingly, we are compelled to strike down any statutes or regulations that violate this principle.

D.

We conclude that exclusive guide areas and joint use areas fall within the category of grants prohibited by the common use clause. These areas allow one guide to exclude all other guides from leading hunts professionally in "his" area. These grants are based primarily on use, occupancy and investment, favoring established guides at the expense of new entrants in the market, such as Owsichuk. To grant such a special privilege based primarily on seniority runs counter to the notion of "common use."

Moreover, the grants are not limited in duration. The statutes allow holders of EGAs to sell their "improvements," and the GLCB routinely transfers the EGA to the purchaser of the improvements or to the guide's designated successor. This practice allows a guide to effectively sell his EGA as if it were a property interest. See Division of Legislative Audit, A

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Performance Report on the Department of Commerce and Economic Development Guide Board 10-11, Audit Control No. 08-1305-88-R (Dec. 11, 1987) [hereinafter "1987 Report"].

Although the Board justified the program to the legislature as a means of improving wildlife management, see Transcript of Senate Resources Committee Hearing on S.B. 661 (March 12, 1976); Transcript of House Resource Committee Hearing on S.B. 661 (April 27, 1976), it is apparent that area assignments are not based primarily on wildlife management concerns. Rather, as authorized by AS 08.564.195(b) and 12 AAC 38.220(c) & (d) (eff. 5/12/78, am. 10/15/82), the Board bases its decisions on use, occupancy and investment.<sup>13</sup> See 1987 Report at 9-10. Thus, the EGA program cannot be justified as a wildlife management tool like other restrictions on common use, such as hunting seasons and bag limits.<sup>14</sup>

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13. Both the statute and the regulations require the Board also to consider "big game populations in the area." AS 08.54.195(b)(4); see 12 AAC 38.220(d)(1). The regulations make it clear that this is a secondary consideration. Id. Moreover, the context of this requirement in both the statute and the regulation suggests that it was enacted only to determine how many guides the game would support economically, not to benefit the game resource directly. Finally, it is clear that the Board simply does not pay much attention to this criterion. A recent legislative report concluded, "Use of independent game information for specific regions of the State no longer appears to be a significant factor in the Board's decision-making process." 1987 Report at 10.

14. We acknowledge that the EGA program may facilitate  
(footnote continued)

The state argues that EGAs do not deny Owsichuk common use of the wildlife resources because he, like any other member of the public, may hunt recreationally in these areas. We reject this argument. In CWC Fisheries v. Bunker, 755 P.2d 1115, 1121 n.14 (Alaska 1988), we noted that the public trust doctrine guaranteed fishermen access to public resources for "private commercial purposes" as well as for recreation. The same rationale applies to professional hunting guides under the common use

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(footnote continued)

wildlife management by giving each guide having an EGA an incentive to conserve wildlife. However, without a specific constitutional provision allowing EGAs, mere usefulness in wildlife management does not suffice to save the EGA program from unconstitutionality under the anti-monopolistic common use clause. In the analogous area of limited entry in commercial fisheries, one purpose of limited entry has always been conservation related. However, this was not sufficient to save precursors to the present limited entry system from findings of unconstitutionality prior to the constitutional amendment allowing limited entry. This history is detailed in State v. Ostrosky, 677 P.2d at 1188, 1189 (Alaska 1983).

clause.<sup>15</sup> The common use clause makes no distinction between use for personal purposes and use for professional purposes.<sup>16</sup>

Nothing in this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional. The statutes and regulations of the Department of Natural Resources authorize leases and concession contracts of limited duration, subject to competitive bidding procedures and valuable consideration. See AS 38.05.070-.075 (authorizing leases and setting forth procedures); AS 41.21.027 (authorizing concession contracts in state parks); 11 AAC 14.200-.260, 14.010-.130 (establishing procedures for awarding concession contracts); see also Alyeska Ski Corp. v. Holdsworth, 426 P.2d 1006, 1009-11 (Alaska 1967) (discussing procedures required by

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15. Admittedly, there is a difference between commercial fishermen and professional guides: a commercial fisherman takes his catch himself before selling it to others for consumption, while a hunting guide does not actually take the game, a privilege reserved for the client. We view this as an insignificant distinction that does not remove professional hunting guides from protection under the common use clause. The work of a guide is so closely tied to hunting and taking wildlife that there is no meaningful basis for distinguishing between the rights of a guide and the rights of a hunter under the common use clause.

16. The right to lead hunts professionally is a significant one. Nonresidents of Alaska are required to hire a guide in order to hunt brown bear, polar bear, and sheep, AS 16.05.407, and nonresident aliens must hire a guide to hunt any big game. AS 16.05.408. Thus, the holder of an EGA has a monopoly over this market, which is a substantial one in Alaska, for his geographic area.

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law for leasing of state lands); CWC Fisheries v. Bunker, 755 P.2d 1115, 1120-21 (Alaska 1988) (stating in dictum that shore fisheries leasing program would not violate public trust, in part because leases were of finite duration and required annual rental). In contrast, EGAs are not subject to competitive bidding, provide no remuneration to the state, are of unlimited duration, and are not subject to any other contractual terms or restrictions. Rather, as discussed above, they are granted essentially on the basis of seniority, with no rental or usage fee, for an unlimited duration, and are administered in such a way that guides may transfer them for a profit as if they owned them. In these respects the EGAs resemble the types of royal grants the common use clause expressly intended to prohibit. Leases and concession contracts do not share these characteristics.

For these reasons, we hold that AS 08.54.040(7), AS 08.54.195, and the regulations of the Board permitting the assignment of exclusive guide areas are in contravention of article VIII, section 3 of the Alaska Constitution.<sup>17</sup>

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17. We note that EGAs may also violate article VIII, section 17. This section of Alaska's constitution provides:

Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law

(footnote continued)

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Accordingly, Owsichek is entitled to relief declaring the EGAs that have been granted by the Board to be without legal force.<sup>18</sup>

#### IV.

In addition to declaratory relief, Owsichek seeks damages against the state. Because the superior court did not reach this issue, we would ordinarily remand for further proceedings. However, when an issue is raised in the trial court and is adequately briefed by all concerned parties on appeal, this court may consider it. Mullen v. Christiansen, 642 P.2d 1345, 1350-51 (Alaska 1982).

Owsichek bases his claim for damages on allegations that the Board acted without authority in enacting the EGA

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(footnote continued)

or regulation.

In Gilman v. Martin, 662 P.2d 120, 126 (Alaska 1983), we noted that this provision may require "more stringent review" of a statute than does the equal protection clause in cases involving natural resources. There is much less constitutional history of this clause than of the common use clause. The commentary states in full, "This section is intended to exclude any especially privileged status for any person in the use of natural resources subject to disposition by the state." 6 Proceedings of the Alaska Constitutional Convention app. V, at 99 (Commentary on Article on State Lands and Natural Resources, Jan. 16, 1956) (emphasis added). Because the parties have not briefed the issue and since we are able to decide the case on other grounds, we need not decide this question.

18. Our resolution of this issue makes it unnecessary for us to decide Owsichek's other challenges to the statutes and to the actions of the Board.

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regulations initially and that the regulations failed to comply with the legislation that was later passed.<sup>19</sup> We need not decide whether these allegations are true. Even if the Board acted without authority or failed to comply with statutory standards, it is immune from suit under the discretionary function exception provided for in the Tort Claims Act,<sup>20</sup> as interpreted by our prior decisions.

In at least two cases, we have held that acts of public officials who in good faith misinterpret the law and act in excess of their authority are immune from suit. Earth Movers of Fairbanks, Inc. v. State, 691 P.2d 281, 283-84 (Alaska 1984)

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19. Owsichek does not base his claim for damages on the legislature's enactment of an unconstitutional statute. We note that such a claim would fail under our holding in Vest v. Schafer, 757 P.2d 588, 598 (Alaska 1988), where we wrote, "[W]e do not believe it proper for the judiciary to assess damages against the State on the ground that the legislature enacted a law later held unconstitutional, in the absence of a statute allowing or requiring such damages."

20. Alaska Statute 09.50.250 provides in part:

A person or corporation having a contract, quasi-contract, or tort claim against the state may bring an action against the state in the superior court. . . . However, no action may be brought under this section if the claim

(1) . . . is an action for tort, and based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion involved is abused. . . .

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(police officer lacked authority to temporarily reduce speed limit); Bridges v. Alaska Housing Authority, 375 P.2d 696, 698, 702 (Alaska 1962) (housing authority lacked power to use declaration of taking). We have also held that decisions involving the formulation of basic policy are entitled to immunity. See Industrial Indemnity Co. v. State, 669 P.2d 561, 563 (Alaska 1983).

The EGA program was a major policy initiative of the GLCB. Therefore, even if the Board acted in excess of its authority or failed to comply with the requirements of the statute, it is immune from suit under the discretionary function exception provided for in AS 09.50.250. Furthermore, there is no evidence that the Board acted in bad faith.

V.

Owsichek argues that it was improper for the superior court to assess attorney's fees against him, on the ground that he is a public interest litigant. See Southeast Alaska Conservation Council v. State, 665 P.2d 544, 553-54 (Alaska 1983). Because the state is no longer the prevailing party, the fee award must be vacated and remanded for redetermination.

We note, however, that successful public interest litigants may be entitled to full attorney's fees. City of Anchorage v. McCabe, 568 P.2d 986, 993-94 (Alaska 1977). Thus, the question of whether Owsichek is a public interest litigant may be

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relevant on remand. Since the parties have fully briefed the issue, we will address it here.<sup>21</sup>

We have consistently held that a party will not be deemed a public interest litigant where the party had sufficient economic incentive to bring the lawsuit without regard to the public interest. E.g., Rosen v. State Board of Public Accountancy, 689 P.2d 478, 480 (Alaska 1984). As discussed above, Owsichak claims that the EGAs in his Units jeopardized the \$450,000 he had invested in his guiding operation, and that he suffered over \$100,000 in damages. This was clearly sufficient economic incentive to bring the suit. Therefore, we conclude that he is not a public interest litigant.

REVERSED and REMANDED.

1000,00  
Appellant  
Appellant  
10-31-88  
Rabinowitz  
S. Beck  
10-19-88

21. The parties' briefing assumes that the state was the prevailing party, which is no longer true. However, we have never distinguished between successful and unsuccessful parties in applying our standards for determining whether a party is a public interest litigant, and we see no reason to make such a distinction. Thus, the public interest analysis does not change if Owsichak, rather than the state, is viewed as the prevailing party.

RECEIVED NOV 4 1988  
STEVE COWPER, GOVERNOR

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

November 1, 1988

Senator Jan Faiks  
3111 C Street, Suite 525  
Anchorage, Alaska 99503

REPLY TO:

1031 W 4th AVENUE  
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FAIRBANKS, ALASKA 99701-4679

P.O. BOX K—STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 455-3600

Dear Senator Faiks:

In response to a request from Mark Riehle of your staff, I am writing to give you a synopsis of the recent Owsichek decision and my initial thoughts on its implications. I am including a copy of the decision and will be referring to particular pages in it.

In Owsichek, the Alaska Supreme Court decided that the statutes and regulations that underlie the state's exclusive guide area system ("EGA") <sup>1/</sup> are unconstitutional. As of the date of the decision, October 21, 1988, this system has no legal force. (Page 27, last paragraph).

The court based the decision on its interpretation of the "common use clause," i.e., article VIII, section 3 of the Alaska Constitution. This clause says, "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use."

This was the first time the court was called on to interpret the common use clause with respect to wildlife. In earlier decisions, it had discussed the clause in the context of state waters (Wernberg and CWC Fisheries) and in the context of fish (Ostrosky and Johns). <sup>2/</sup> In light of its earlier decisions, the

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<sup>1/</sup>The court uses the term "exclusive guide areas" to describe not only joint use areas but also "restricted guide areas," a term used to describe EGA's since 1986 when the term appeared in AS 08.54.195.

<sup>2/</sup>In Ostrosky, the court stated that fisheries limited entry was inconsistent with the common use clause, but that this system was saved by a 1972 constitutional amendment that specifically provided for it. (Page 12, first complete paragraph.) The fisheries limited entry amendment is Article VIII, § 15 of the Alaska Constitution.

APPENDIX L

court declared that the "common use clause was intended to guarantee broad public access to natural resources." (Page 13, first complete paragraph).

In order to further clarify the meaning of the common use clause, the court looked to the constitutional history of this clause (Part B. of the decision, pp. 13-17) and to the historic development of wildlife law in general (Part C. of the decision, pp. 17-23). Concerning the constitutional history, the court said that the purpose of the clause was "anti-monopoly." It also found that the framers of the constitution intended to prohibit "exclusive grants or special privileges" and intended that the public "retain broad access to fish, wildlife and water resources." (Pages 13, second full paragraph through end of section B. on page 17).

In discussing the development of wildlife law, the court said that the common use clause "constitutionalized" the state's public trust duty toward wildlife. This is a duty to manage these resources for the benefit of all the people. (Page 19, last paragraph through end of page 20.)

The court summarized its interpretation of the common use clause by stating that the clause was intended to put into the constitution "certain trust principles guaranteeing access to the fish, wildlife and water resources of the state" and, at a minimum, this meant a "prohibition against any monopolistic grants or special privileges." (Page 22, last paragraph through end of section on page 23.) It also stated that the clause makes no distinction between use for personal purposes and use for professional purposes; common use applies to commercial guiding as well as recreational hunting. (Page 25, first paragraph.)

In deciding that the EGA's violated these principles, the court noted the following features of the system:

1. The EGA system gave one guide the right to exclude all other guides from conducting hunts in his or her EGA. This right was based on the area holder's seniority, that is, his or her use, occupancy, and investment in the area. (Page 23, first complete paragraph.)

2. EGA rights had no time limit, and the system of transferring them, based as it was on the selling of "improvements" and a holder's designation of his or her successor, allowed the selling of areas as if they were a property interest. (Page 23, second complete paragraph.)

3. The assignment of EGA's was not based primarily on wildlife management concerns. (Page 24, first complete paragraph.) The system could not be justified as a game management tool and therefore was unlike licensing requirements, bag limitations, and seasonal restrictions which were proper and "time-honored methods of conserving the resources." (Page 10, first complete paragraph.) In this regard, it is important to note that the court said that even if used as a wildlife management tool, this would not "save the EGA system from unconstitutionality under the anti-monopolistic common use clause." (Page 24, footnote 14.)

Finally, the court made a distinction between the EGA's on one hand and state leases and exclusive concessions on the other. The latter are permissible because they are of limited duration, because they are subject to competitive bidding, because they are limited by contract terms and restrictions, and because the state receives compensation for them. (Page 26, first complete paragraph).

This part of the decision has prompted proposals for enacting a new area system that has some of the features of a lease or concession. For example, it has been suggested that area permits be issued for a limited duration, based on competitive bidding, and with fees paid to the state.

I believe, however, that any system which allows some but not all qualified guides to have access to game resources will not satisfy the principle of common use as expressed by Owsichek. Even if a limited entry system served a game management purpose and not just the economic stability of the guiding industry, it would still have monopolistic features that are contrary to the concept of "common use." (See again footnote 14, beginning on page 24.) It would be a misinterpretation of Owsichek to believe that the common use clause will be satisfied by merely modifying the exclusive area system by adding several features that characterize other state concessions. Unlike wildlife, land leases and other uses of public resources are not listed in the common use clause. Thus, they are freer to allow access by one user and exclude all others.

The Department of Law has been asked to request the court to reconsider the decision or to postpone its effect until June 1 of next year.

Concerning a request for reconsideration, the court will not rehear a case on matters that it has already considered. We would have to point out a law, principle, or important fact that it did not already look at. (Appellate Rule 506). To date,

neither I nor any other assistant attorney general who is familiar with the case believes that there is a ground for requesting a rehearing. Because the court's decision was unanimous and was published after such a long period of deliberation, it is likely that any lingering doubts about the case have been resolved. For the same reasons, it is highly unlikely, even if the court agreed to rehear the case, that it would reverse its decision.

I believe that unless we can show that the decision will have definite, significant, and adverse consequences, the court will not take the extraordinary step of postponing the effect of its decision. One consequence may be a short-term overharvesting of game resources. I have been communicating with the Director, Division of Game to determine whether Owsichek will cause undue resource pressure that cannot be managed by the Board of Game. Another consequence may be the canceling of client contracts and refund of deposits paid to guides who booked hunts in reliance on the EGA system. I have asked the Division of Occupational Licensing and the Alaska Professional Hunters Association to provide me with information about the number of guides who have existing contracts and the number of persons who now will be eligible to guide in former EGA's.

This information will assist the Department of Law in deciding whether a sound case can be made for postponement of the effective date of the decision. In any event, we have several weeks to gather and analyze data and to make this decision. Mr. Owsichek's attorney and I have asked the court to extend until November 18 the deadline for filing such requests, and I expect that this extension will be granted.

I hope this letter assists your understanding of the Owsichek decision. If you have additional questions, please do not hesitate to contact me.

Sincerely,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

*Stephen M. White* by bt  
By: Stephen M. White  
Assistant Attorney General

SW/bt

Encl.

Senator Jan Faiks  
Anchorage, Alaska

November 1, 1988  
Page 5

cc: Rep. Heinrich Springer, Chairman  
Alaska Legislative Task Force on Guiding  
and Big Game

Randall Burns, Director  
Division of Occupational Licensing

Ray McNutt, Chairman  
Guide Licensing and Control Board

Rod Swope, Special Staff Assistant  
Office of the Governor

IN THE SUPREME COURT OF THE STATE OF ALASKA

KENNETH D. OWSICHEK, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF ALASKA, GUIDE )  
 LICENSING AND CONTROL BOARD, )  
 )  
 Appellee. )  
 )

Supreme Court No. S-1650

O R D E R

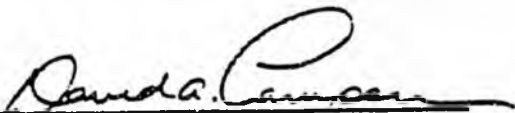
Trial Court No. 3AN 79-2387 Civil

On consideration of the motion for stay of decision, filed on November 18, 1988, and the opposition to the motion, filed on November 28, 1988,

IT IS ORDERED:

The motion for stay is granted. The portion of Opinion No. 3389, filed on October 21, 1988, which declares that the exclusive guide areas granted by the appellee State of Alaska Guide Licensing and Control Board are without legal force is stayed until June 1, 1989.

Entered by direction of Justice Jay A. Rabinowitz at Anchorage, Alaska on December 8, 1988.

  
\_\_\_\_\_  
DAVID A. LAMPEN  
Clerk of the Supreme Court

file 83140

# Alaska State Legislature

Senate Advisory Council



P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
Phone: (907) 465-3114

## MEMORANDUM

TO: Senator Bettye Fahrenkamp  
Alaska State Senate

FROM: Sheila F. Helgath, PhD *SHH*  
Legislative Analyst

DATE: March 29, 1989

SUBJECT: Other State Requirements to Obtain a Hunting Guide before Hunting;  
Research Request #89-100041

You have requested that Senate Advisory Council determine if other states require hunters to use guides.

Only two states of those surveyed have a hunting guide requirement. These states are Maine where hunters must have a registered guide to hunt bear with dogs and Wyoming. Wyoming requires that non-residents obtain the services of a licensed professional guide or be accompanied by a resident guide. Any resident licensed to hunt big game can become a resident guide without additional fees. Guides are limited to two clients at a time. In California, private forest land owners can require that a guide be present during the hunt. Most of the large timber companies do have such a requirement in Northern California. Michigan is considering a requirement for guides but the legislation has never passed through their legislature. Canadian provinces often require non-residents of Canada to obtain the services of a guide.

The following states surveyed did not require guides: Arizona, California, Colorado, Idaho, Louisiana, Minnesota, Michigan, Montana, Nevada, North Carolina, and Tennessee.

If you have further questions on this subject please call.

6—Fairbanks Daily News-Miner, Fairbanks, Alaska, Wednesday, April 26, 1989

## Senate accepts revised guide bill

JUNEAU (AP)—Long-debated legislation that would establish a new licensing system and regulations for hunting guides, outfitters and people providing services to big-game hunters has passed the Senate.

House Bill 112 passed the Senate on a 12-5 vote Tuesday and will be sent back to the House for concurrence with Senate amendments.

The 34-page bill would set up a nine-member Big Game Commercial Services Board to replace the state Guide Board. The new board would license, regulate and discipline those who provide commercial services to big-game hunters.

The legislation sets out detailed licensing requirements for guides, outfitters, their assistants, and people providing transportation to big-game hunters. The requirements include tests to prove their qualifications, recommendations from hunters, and extensive experience.

The state already regulates guides, but state regulation of outfitters and those providing other services to hunters would be new. The Department of Fish and Game

wants the new regulations to keep better track of who is assisting big-game hunters, especially in areas where game populations are threatened.

The bill requires lodges, gear-rental shops and related businesses to obtain a commercial-use permit to provide services to big-game hunters.

The legislation also combines guides and outfitters in one classification. One provision would require guide-outfitters to have worked in the profession in each of the past three years.

Sen. Mike Szymanski, D-Anchorage, questioned the wisdom of the tough requirements, and suggested they're aimed at protecting long-established guides from new competition.

"Let's not kid anybody. We know the groups that put this thing together," Szymanski said. "This is crafted to take care of these groups, not the public at large."

However, newcomers still could become guide-outfitters by first becoming licensed and working as an assistant guide-outfitter, said Nan-

cy Petersen, an aide to Sen. Bettye Fahrenkamp, D-Fairbanks. Fahrenkamp is chairman of the Senate Resources Committee, which helped craft the legislation.

Sen. Rick Halford, R-Chugiak and a licensed guide, criticized the industry groups that support the bill, and said they eventually will realize it is a mistake.

"I think the compromise represents more regulation than the industry can handle in the long term," Halford said. Small guide and outfitter businesses will be especially hurt, he predicted.

The legislation does not set up a new system to comply with a 1988 Alaska Supreme Court ruling that struck down the state's exclusive guide areas, but supporters say it lays the foundation for that system.

Fahrenkamp said the state Task Force on Guiding and Game is charged with recommending to the Legislature an alternative to exclusive guide areas by Jan. 15. The Legislature may have to enact new laws to adopt the alternative next year, Petersen said.

Editorial Opinion and Comment of



# Daily News - Miner

"Independent in All Things . . . Neutral in None"

Sunday  
February 5, 1989

Other opinions expressed on this page do not necessarily reflect those of the Daily News-Miner.

## Clear course of action

The Legislature has a clear course of action at hand to resolve two problems that threaten the commercial hunting industry and the protection of wildlife in Alaska.

A task force established by the Legislature at the end of last session has submitted its report and proposed a way to deal with the problems. The Legislature must act quickly to avert a crisis.

The task force was formed to address the problem of non-licensed guides conducting unregulated commercial hunting operations.

Midway through the task force's work, the Alaska Supreme Court issued a decision declaring restricted guiding areas unconstitutional. That meant that any number of guides might hunt a certain area, instead of just the one to which it was assigned.

At issue in both cases is our state's ability to regulate commercial hunting. Adequate regulation is essential if game species are to continue to prosper and be available for resident hunters.

The task force recommended that the Legislature establish three classifications for persons involved in the hunting business. Guide-outfitters could lead hunts, providing services in the field. Transporters could provide transportation for hunters but could not set up camps or stay with clients in the field. Commercial permit holders would include lodge operators, expeditors, gear renters and others who deal with hunters.

The new guide-outfitters would be subject to most of the same rigorous qualifications that guides presently are, including examinations, licenses and years of experience. Present-day outfitters would have an opportunity to comply with requirements.

Transporters who flew clients to the field would have to qualify under regulations of the Federal Aviation Administration as air taxi operators. In all cases, reporting requirements would be much more than the present system. The existing Guide Board would be disbanded and a Big Game Commercial Services Board would be established to oversee the new regulatory system.

The recommendations of the task force were written into a bill and submitted in both the House and the Senate. The two Resources Committees plan a joint hearing on the bill Monday and again on Wednesday. Quick action is needed because the Board of Game meets in March and has indicated it will put severe restrictions on the game harvest if the controversy is not resolved.

At the same time, the task force recommended that it be continued to address the problem posed by the Supreme Court's decision on restricted guiding areas. A bill to extend the task force's termination date was submitted.

The court decision dealt a blow to a strategy our state uses to protect game populations. A guide with exclusive use of an area has a vested interest in keeping the game numbers high. The Department of Fish and Game can have a better idea on how much hunting is being conducted in each area. Without the restricted areas, guides may over-hunt the best areas.

The task force suggested that a lease or concession system might meet constitutional requirements in assigning guiding areas, but said a complete study was needed to design a bill for a new management system. The Legislature must resolve the issue this session as well, because the restricted guiding areas will end in May.

The joint hearings scheduled this week on the guide-outfitter bill show the Legislature is determined to address the issue quickly. We commend the Legislature for that, and urge that it also act quickly to extend the task force so that it may help resolve the issue of assigned guiding areas as well.

People that want to listen to the committee hearing may do so Monday at 1:30 at the Legislative Information Office in the Denali Bank Building.

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## Legislation targets new guiding rules

By SAM BISHOP  
Staff Writer

Air taxi companies would need special licenses to carry big game hunters, under proposed legislation scheduled for hearings in the state House and Senate this week.

The bills, developed by a task force looking into disputes between hunting guides and outfitters, contain a comprehensive revision of the state's commercial hunting rules. SB 139 and 140 and HB 112 and 113 were sponsored by the House and Senate Resources committees.

The revisions, among other things, would require the state's small air service companies to get special transporter licenses if they made flights for hunters.

The Alaska Air Carriers Association, meeting in Seattle this weekend, was reviewing the issue.

In Fairbanks, Bob Bursiel, owner of Wright Air Service, said the proposed rules would be redundant and would add unnecessary paperwork to his business.

"The air taxis already have a tremendous burden on their shoulders with all the reports they have to fill out," Bursiel said. "We are providing licensed, insured, totally legal services already."

The bill would classify hunting service providers into three groups: guide-outfitters, commercial users and transporters.

Guide-outfitters would follow rules similar to those in existing guide law. Commercial users would be companies that provide accommodations, gear and photo-

(See GUIDE BILLS, Page A-3)

## GUIDE BILLS

(Continued from Page A-1)

graphic or video services.

Air taxi companies that provide services specifically to big game hunters would fall into the transporter category, as would charter boat operators serving hunters. They would purchase state licenses, file annual reports and pay fees.

Bursiel said he does not believe air services should be subject to those requirements. Carriers already must obtain air taxi licenses from the Federal Aviation Administration, he said. The FAA requires expensive liability insurance, plane and engine inspections every 100 hours, approved operation and training manuals and check rides.

Former state Sen. Ken Fanning, a guide and member of the Task Force on Game and Guiding that created the bills, said the license and reporting requirements are game conservation measures.

The intent is to control the growing outfitting industry in the state.

Currently, outfitters are permitted to do everything a guide may do, except actually stalk an animal. Outfitters, unlike guides, do not need any sort of license, do not fill out reports and are not restricted to specific areas.

As a result, it is difficult for the state to determine how many hunters fly in with outfitters and how great an effect they are having on game populations, guides say. Guides also accused outfitters of stretching the law by assisting hunters in the field.

The task force bill would require outfitters to either become guides, get transporter licenses, or quit the business. If they become transporters, they could not provide services in the field other than room and board at a lodge, house or boat owned by the transporter and with permanent living quarters.

To get a transporter license, they would first need a federal air taxi license. Both Fanning and Bursiel said many outfitters are essentially air carriers and should be required to have the federal license anyway.

But Bursiel said that the extra requirement for state transporter licenses doesn't make sense. Bur-

siel said the state already gets information about the time, place and species of big game kills from individual hunters through harvest tickets submitted to the Department of Fish and Game.

Fanning said the rules proposed in the task force bill are less burdensome than those approved by the Legislature last year. That legislation required weekly reports, he said.

The bills do not require the new guide-outfitter class to get transporter licenses, although they would fill out detailed reports and pay fees. Bursiel said he thinks guides should be required to have transporter licenses.

Fanning said the task force considered requiring guide-outfitters to have transporter licenses but rejected the idea overwhelmingly.

He said the task force saw no reason to make guide-outfitters, who might fly once a week, comply with regulations that are designed for high-volume air operators.

Samantha Castle, a member of the state Board of Game and a former guide, said she thinks air carriers should be hesitant about asking guides to get air taxi licenses. If guides did so, they could compete in the air service industry, she said.

Castle, who works as a management consultant to the Alaska Professional Hunters Association, said guides in general are refraining from criticizing the bill.

But Fanning said guides are worried that the new state guide board, to be renamed the Big Game Commercial Services Board, will not have a majority of guides.

Under other portions of the bills, the guide-outfitter would pay the state a "big game conservation fee" equal to 25 percent of cost of the big game tags bought by clients. If the hunt was not guided, the transporter must pay the fee.

The state House and Senate Resources committees will hold a listen-only teleconference on the guide bills Monday at 1:30 p.m. in the Legislative Information Office in the Denali State Bank building. Testimony will be taken by the Senate Resources Committee Wednesday at 1:30 p.m.

FREE

**S B**

**153**

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE waived  
2/14/89  
IN ACCORDANCE WITH UNIFORM RULE 23

2/3/89

FURTHER

FIN

\*\*FISCAL NOTE(S) MUST BE ATTACHED  
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 2/15/89

Mr. President:

RES

Committee considered

SB 153

making a supplemental appropriation to the department of Revenue for reimbursement to municipalities under the fisheries tax refund program and the aviation fuel revenue sharing; efd.

and recommended:

- replace with CS \_\_\_\_\_  same title
- attached amendment(s) and  new title
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

FISCAL NOTE(S) attached  zero  
 appropriation no FN attached

fiscal impact  
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature]

[Signature]

Rick Halford NO REC

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature] <sup>do Pass</sup>  
Chairman signature and recommendation

Committee backup attached



**SENATOR FRED F. ZHAROFF**  
**ALASKA STATE LEGISLATURE**

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

**DISTRICT N**

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Bettye Fahrenkamp, Chair  
Senate Resources Committee

FROM: Senator Fred F. Zharoff

DATE: February 6, 1989

SUBJ: SB 153

On Friday, February 3, 1989, I introduced SB 153, "An Act making a supplemental appropriation to the Department of Revenue for reimbursement to municipalities under the fisheries tax refund program and the aviation fuel revenue sharing; and providing for an effective date." This bill was referred to the Resources and Finance Committees.

The intent of SB 153 is to distribute to communities the funds they are entitled to from state collected revenues under the fisheries tax and aviation fuel revenue sharing programs. The FY 89 budget passed by the legislature in 1988 did not authorize the Department of Revenue to distribute all the fish tax revenues municipalities were entitled to due to an underestimation of the amount of fish taxes that would be collected by the state under this program by the Department of Revenue. Therefore, this bill would allow the DOR to distribute the remaining amount due to communities.

The Aviation Fuel Tax Revenue Sharing program portion of the bill allows the DOR to share with the Municipality of Anchorage funds under this program that the DOR did not anticipate receiving in FY 89 at Merrill Field and therefore no legislative authorization to distribute these funds to Anchorage was given during the 1988 session.

Since many communities based their municipal budgets on receiving all they were entitled to under these programs, I am hopeful that this bill will move quickly through the legislature. I did not want these funds tied up until the end of session with the governor's supplemental appropriations bill. Because municipalities are counting on receipt of these funds to balance their budgets, I respectfully request that the Senate Resources committee schedule a hearing at its earliest possible convenience or since this is mainly a financial issue, perhaps waiving the bill to the Finance Committee would be possible.

Sen. Zharoff

BILL SUMMARY OF SB 153

Under AS 43.75.130, the state is obligated to reimburse to communities one half of the revenues collected under the fisheries business tax collected in those communities where processing occurs. Traditionally, the Department of Revenue would estimate the amount that the state would be obligated to reimburse to the communities under this program and provide that information to the legislature for inclusion in DOR's budget. The problem with this approach is that DOR does not know the exact amount to be distributed during a given fiscal year by the time the legislature adjourns because of the timing of collections of the tax. This has created underfunding in the budget of the amount to be reimbursed to communities in each of the past two operating budgets. Last year, the legislature passed a supplemental appropriation of \$730,264 because of underfunding. This year, the amount of underfunding has been calculated to be \$3,411,196, or roughly 30% of the total amount the state is obligated to share. All the fish taxes have been collected. The state has received its share and the \$3.4 million remaining obligation to municipalities has been collected and deposited in the general fund. All that remains is for legislative authorization to distribute these funds.

The Aviation Fuel Revenue Sharing supplemental is similar. Sixty percent of the aviation fuel taxes collected by the state (minus administrative costs) are refunded to municipalities owning or leasing and operating an airport. The \$46,579 included in Section 2 is the Municipality of Anchorage's share of unanticipated, and therefore unbudgeted, Aviation Fuel taxes collected at Merrill Field.

The Department of Revenue submitted these supplementals for inclusion in the governor's supplemental bill, but since municipalities are counting on these funds for their FY 89 budgets, I have introduced SB 153 in hopes that this bill will receive expedited action and these funds will not be held up in the governor's supplemental.

Sen. Zharoff

SECTIONAL ANALYSIS OF SENATE BILL 153

SECTION 1: Appropriates the amount still owed to municipalities and boroughs under the fisheries tax refund program (AS 43.75.130(a)) to the Department of Revenue for disbursement. The amount still owed is \$3,411,196.

SECTION 2: Appropriates the amount still owed to the Municipality of Anchorage under the Aviation Fuel Revenue sharing program (AS 43.40.010(e)) to the Department of Revenue for disbursement. The amount still owed is \$46,578.

SECTION 3: Lapses the unexpended and unobligated balances created by this bill on July 1, 1989.

SECTION 4: Provides for an immediate effective date.

1	2	3	4	5	6	APPROPRIATION		APPROPRIATION FUND SOURCES		1
						ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS	
3		*****		*****						3
4		*****	DEPARTMENT OF REVENUE	*****						4
5		*****		*****						5
6		ALCOHOL BEVERAGE CONTROL BOARD (12 POSITIONS)				700,600		700,600		6
7		SHARED TAXES AND LICENSE FEES				10,786,200		10,786,200		7
8		AMUSEMENT AND GAMING TAX			60,200					8
9		AVIATION FUEL TAX			241,000					9
10		ELECTRIC AND TELEPHONE COOPERATIVE TAX			1,900,000					10
11		LIQUOR LICENSE FEES			900,000					11
12		FISHERIES TAX			7,785,000					12
13		MUNICIPAL BOND BANK AUTHORITY (2 POSITIONS)				299,000			299,000	13
14		FY89 INTENT: IT IS THE INTENT OF THE LEGISLATURE THAT								14
15		THE MUNICIPAL BOND BANK CAN COME BEFORE THE LEGISLATIVE								15
16		BUDGET AND AUDIT COMMITTEE FOR ADDITIONAL CONTRACTUAL								16
17		AUTHORITY IF EXISTING FUNDING IS NOT SUFFICIENT FOR								17
18		ISSUING BONDS.								18
19		PERMANENT FUND CORPORATION (16 POSITIONS)				7,392,500			7,392,500	19
20		ALASKA HOUSING FINANCE CORPORATION (81 POSITIONS)				5,924,100			5,924,100	20
21		FY89 INTENT: IT IS THE INTENT OF THE LEGISLATURE THAT								21
22		35 ADDITIONAL POSITIONS AND THE CONTRACTUAL SERVICES								22
23		AUTHORIZED IN FISCAL YEARS 1988 AND 1989 FOR								23
24		ADMINISTRATION OF FORECLOSED PROPERTIES SHOULD BE REVIEW								24
25		ANNUALLY IN RELATION TO THEIR WORKLOAD. THESE POSITIONS								25
26		ARE NOT INTENDED TO BE PERMANENT. AS AHFC FORECLOSURES								26
27		AND PROPERTY HOLDINGS DECREASE, IT IS THE INTENT OF THE								27

Chapter 154

Fy '89 budget

1 DEPARTMENT OF REVENUE (CONT.)  
 2  
 3  
 4 LEGISLATURE THAT THE NUMBER OF POSITIONS AND TI  
 5 OF CONTRACTUAL SERVICES ALSO DECREASE.  
 6 CHILD SUPPORT ENFORCEMENT (109 POSITIONS)  
 7 REVENUE OPERATIONS  
 8  
 9 AUDIT-INCOME AND EXCISE TAX (65 POSITI  
 10 AUDIT-PETROLEUM TAX (55 POSITIONS)  
 11 TREASURY MANAGEMENT (24 POSITIONS)  
 12 OFFICE OF THE COMMISSIONER  
 13 OIL AND GAS TAX  
 14  
 15

MEMORANDUM

STATE OF ALASKA

DEPARTMENT OF REVENUE

TO: Nancy Bennett  
Director  
Administrative Services

DATE: November 1, 1988

FILE NO: 6099I

TELEPHONE NO: 465-2320

THRU:

SUBJECT: FY 89 Raw Fish  
Supplemental

FROM: Steven E. Kettel  
Director  
Income and Excise Audit Division

We request \$3,411,196.00 in a supplemental for FY 89 Raw Fish Revenue Sharing. This request should be funded from general fund monies.

cc: Sandra Yadao  
Shirley Minnich

FY 85 RAW FISH

SHARED REVENUE - CITIES AND BOROUGHS

	TOTAL # AMT POP FY 85 SHARING	AMT SHARED	TOTAL # POP
MUA 635 Anchorage Municipality	255,010.90	167,535.57	70,475.03
CBJ 496 Juneau	22,469.22	16,519.70	6,949.32
CIS 599 Sitka	316,496.50	222,522.59	93,573.68
BBB 699 Bristol Bay Borough	1,407,775.62	990,244.24	416,042.29
FNS 462 North Star Borough	413.99	204.73	124.06
HAB 944 Haines Borough	136,449.01	102,226.62	43,452.39
KPB 465 Kenai Peninsula Borough	1,474,563.05	1,027,244.93	426,119.72
KGB 465 Ketchikan Gateway Borough	153,154.79	107,205.06	45,349.73
KIB 128 Kodiak Island Borough	1,149,861.79	802,295.70	340,474.08
MAB 536 Matanuska-Susitna Borough	22.34	5.96	24.38
NSB 460 North Slope Borough			
NAR 168 NORTHWEST ARCTIC BOROUGH	10.36	7.29	3.07
AEB 138 ALEUTIANS EAST BOROUGH	9,523.58	6,172.01	3,344.57
<b>TOTAL BOROUGHS</b>	<b>4,920,136.14</b>	<b>3,462,699.50</b>	<b>1,457,431.71</b>
CIA 323 Akhiok			
CIA 322 Akiachak			
CIA 321 Akiak			
CIA 072 Akutan	376,494.36	244,269.54	132,224.82
CIA 693 Alakanuk			
CAL 596 Aleknaqik			
CAL 597 Allakaket			
CIA 143 Ambler			
CAP 063 Anaktuvok Pass			
CIA 275 Anderson			

Subtotal this page 376,494.36 244,269.54 132,224.82

SHARED REVENUE - CITIES AND BOROUGHS

CIA 461	Anqoon			
CIA 062	Aniak	236.46	166.44	70.02
CIA 057	Anvik	904.08	636.38	267.70
CIA 565	Atmautluak			
COA 027	Atkasuk			
CIB 781	Barrow			
CIB 819	Bethel	30,055.48	21,156.05	8,899.43
CBM 320	Breviq Mission			
CBU 595	Buckland			
CIC 132	Chauthbaluk			
CIC 319	Chefornak			
CIC 202	Chevak			
COC 272	Chignik	289,144.29	202,824.77	85,319.52
CCP 269	Clark's Point	44,117.22	31,054.65	13,063.33
CCB 210	Cold Bay			
CIC 801	Cordova	810,736.13	570,544.35	240,157.78
CIC 492	Craig			
CID 317	Deering			
CDJ 475	Delta Junction			
CID 836	Dillingham	1,470.60	1,035.22	435.44
CID 072	Diomedes			
CEA 594	Eagle			
CIE 061	Eek			
CIE 316	Ekwok			
CIE 593	Elim			

Subtotal this page 1,175,661.11 827,447.96 348,213.25

SHARED REVENUE - CITIES AND BOROUGHS

CIE 322	Emmonak			
CIF 635	Fairbanks	7.19	5.06	2.13
CFY 463	Fort Yukon			
CIF 201	Fortuna Ledge	9,411.44	6,624.71	2,786.73
CIG 271	Galena	1,633.27	1,149.66	483.61
CIG 231	Gambell			
CIG 315	Golovin			
CGB 110	Goodnews Bay			
CIG 200	Grayling			
CIH 871	Haines	297.71	229.56	88.15
CHC 590	Holy Cross			
CIH 724	Homer	169,824	119,508.26	50,413.98
CIH 254	Hoonah	47,310.70	33,302.00	14,008.70
CHB 589	Hooper Bay			
CIH 520	Houston			
CIH 314	Hughes			
CIH 852	Huslia			
CIH 230	Hydaburg			
CIK 111	Kachemak			
CIK 464	Kake	24,136.93	16,989.99	7,146.94
CIK 313	Kaktovik			
CIK 197	Kaltaq			
CIK 927	Kasaan			
COK 301	Kasiqluk			
CIK 891	Kenai	512,056.67	235,414.72	107,441.85

Subtotal this page 415,574.12 433,204.03 182,372.09

SHARED REVENUE - CITIES AND BOROUGHES

CIK 709	Ketchikan	125,453.22	88,306.52	37,146.70
CIK 060	Kiana			
CKC 059	King Cove	574,007.31	372,415.94	201,591.37
CIK 196	Kivalina			
CIK 229	Klawock	9,266.04	6,522.37	2,743.67
CIK 312	Kobuk			
CIK 916	Kodiak	820,672.22	619,909.40	260,768.82
CIK 311	Kotlik			
CIK 679	Kotzebue	10.36	7.29	3.07
CIK 195	Koyuk			
CIK 228	Koyukuk			
CIK 088	Kupreanof			
CIK 133	Kwethluk			
CLB 218	Larsen Bay	5,042.56	3,449.46	1,593.10
CIL 199	Lower Kalskaq			
CIM 310	Manokotak			
CMC 599	McGrath			
CIM 109	Mekoryuk	62.62	44.12	18.56
CMV 111	Mountain Village	26,827.35	18,883.77	7,943.58
CIN 309	Napakiak			
CIN 308	Napaskiak			
CIN 291	Nenana	836.00	592.46	247.54
CNS 226	New Stuyahok			
CIN 521	Newhalen			
CIN 194	Newtok			

Subtotal this page 1,677,122.54 1,100,124.22 512,056.41

SHARED REVENUE - CITIES AND BOROUGHS

CIN 853	Nightmute			
CIN 085	Nikolai			
CIN 936	Nome			
CIN 174	Nondalton			
CIN 227	Noorvik			
CNP 676	North Pole			
CNU 598	Nulqsut			
CIN 314	Nunapitchuk			
NCC 026	Nulato	545.51	383.98	161.53
COH 108	Old Harbor			
CIO 469	Ouzinkie			
CIP 644	Palmer			
CIP 470	Pelican	124,091.58	87,341.02	36,740.56
CIP 181	Petersburg	516,134.03	398,401.74	167,732.29
CIP 194	Pilot Station			
CIP 307	Platinum			
CPH 224	Point Hope			
CPA 471	Port Alexander			
CPH 306	Port Heiden			
CPL 107	Port Lions			
CIO 193	Quinagak			
CIR 225	Ruby			
CRM 205	Russian Mission			
CSG 054	Saint George			
CSM 472	Saint Marys			

Subtotal this page 620,761.12 495,186.74 204,634.35