

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6525 SENATE RESOURCES

929

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. FAIKS

TO: SB 422

Page 12, following line 3:

Insert a new bill section to read:

"\* Sec. 6. AS 08.54.470 is amended by adding a new subsection to read:

(e) Notwithstanding (a) of this section, a person who is licensed under this chapter as a guide-outfitter but who is retired from or does not engage in guide-outfitting activities is exempt from requirements to obtain a commercial use permit and to pay the commercial use permit fee. The department shall adopt regulations to implement this subsection."

Renumber the following bill sections accordingly.

*Sen. Fabrikant*  
*e* CSSB 422  
*(Res)*

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 422

Page 1, line 8, after "transporters"

Insert "and air carriers"

*17* *29, P18 L1-4*  
Page ~~13~~, lines ~~6-10~~

Delete all material and insert:

"(B) by an air taxi operator or air carrier who does not

(i) charge more than the tariff or charter rate, if listed, for [WHICH] the carriage of big game hunters, their equipment, or big game animals harvested by hunters; or

(ii) advertise big game commercial services to the public [IS ONLY AN INCIDENTAL, AS DEFINED BY THE BOARD, PORTION OF ITS BUSINESS];

*15* *08.54*  
\* Sec. ~~8~~ AS ~~42.30~~ is amended by adding a new section to read:

*08.54.560*  
Sec. ~~42.30.230~~ REPORTS RELATING TO CARRIAGE OF BIG GAME HUNTERS. (a) A person who is subject to AS 42.30.200 shall submit to the department by January 31 of each year an activity report relating to the carriage of big game hunters, their equipment, and big game animals harvested by hunters during the preceding year. The report shall be made on a form provided by the department and must contain

*P19*  
*L-11-19*

information required by the Big Game Commercial Services Board by regulation.

(b) A person who violates this section is guilty of a class B misdemeanor."

Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 422

*Title* Page 1, line 9, after "services":

Insert "; and providing for an effective date" *Title*

Page <sup>20</sup>16, following line <sup>27</sup>2:

Insert a new bill section to read:

"\* Sec. <sup>20</sup>11. The operation of AS 08.54.440 is suspended until January 1, 1991."

Renumber the following bill section accordingly.

Page <sup>21</sup>16, <sup>L19</sup>following line 6:

Insert a new bill section to read:

"\* Sec. <sup>27</sup>13. Section <sup>20</sup>11 of this Act is retroactive to May 12, 1989."

Renumber the following bill section accordingly.

Page <sup>21</sup>16, <sup>L21,22</sup>following line 4:

Insert a new bill section to read:

"\* Sec. <sup>25</sup>18. Sections <sup>20</sup>11 and <sup>23</sup>13 of this Act take effect immediately under AS 01.10.070(c)."

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 422

Page 3, following line 15:

Insert a new subsection to read:

"(c) AS 08.54.620 - 08.54.690 do not apply within an area or to the activities of a guide-outfitter within an area of the state that is not included within the boundary of a guide-outfitter use area adopted by the board."

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 422

Page 4, line 8:

Delete "or"

Insert ","

Page 4, line 9:

After "permittee":

Insert ", automatically revoked under AS 08.54.660,"

After "offered":

Insert "by the board"

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 422

Page 9, following line 17:

Insert a new subsection to read:

"(a) Except as provided in this section, a use area may not be sold, leased, or otherwise assigned."

Reletter the following subsections accordingly.

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 422

Page 12, following line 3:

Insert a new bill section to read:

"\* Sec. 6. AS 08.54.470 is amended by adding a new subsection to read:

(e) Notwithstanding (a) of this section and AS 08.54.370, a person who is licensed under this chapter as a guide-outfitter but who is retired from or does not engage in guide-outfitting activities is exempt from requirements to obtain a commercial use permit and to pay the commercial use permit fee. The department shall adopt regulations to implement this subsection."

Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 422

Page 1, line 9, after "services":

Insert ", and commercial use permits"

Page 8, lines 23 - 25:

Delete all material.

Reletter the following subsection accordingly.

Page 11, following line 7:

Insert a new bill section to read:

"\* Sec. 4. AS 08.54.350(a) is amended to read:

(a) A natural person is entitled to a guide-outfitter license if the person

(1) is 21 years of age or older;

(2) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of meat and trophies, first aid, photography, and related guide-outfitting activities;

(3) is familiar with the terrain and transportation problems in the game management unit for which the license is requested;

(4) has passed the qualification examinations prepared and

administered by the board;

(5) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a state or federal hunting or guide-outfitting statute or regulation within the last five years for which the person was fined more than \$500 or imprisoned for more than five days;

(6) has legally hunted in the state for part of each of any five years in a manner directly contributing to the person's experience and competency as a guide-outfitter;

(7) has been licensed as and performed the services of a class-A assistant guide-outfitter or assistant guide-outfitter in the state for a part of each of three years, or has guide-outfitted in the state for a part of each of three years under a marine mammal guide-outfitter license issued under AS 08.54.360;

(8) has demonstrated a current knowledge of fishing, hunting, and guide-outfitting regulations;

(9) is capable of performing the essential duties associated with guide-outfitting;

(10) has been favorably recommended in writing by six big game hunters, two for each year of the person's most recent three years as a class-A assistant guide-outfitter or assistant guide-outfitter, when the person has guide-outfitted or assisted in guide-outfitting as a class-A assistant guide-outfitter or assistant guide-outfitter, whose recommendations have been solicited by the board from a list provided by the applicant;

(11) possesses a business license to provide

guide-outfitting services; and

(12) has paid the license fee and has applied for a commercial use permit [FEE]."

Renumber the following bill section accordingly.

Page 11, line 20, through page 12, line 26:

Delete all material and insert:

"\* Sec. 6. AS 08.54.360(a) is amended to read:

(a) The board may issue a marine mammal guide-outfitter license to a natural person who applies to guide-outfit a hunt for a specific species of marine mammal in a specifically designated area if the person

(1) is 21 years of age or older;

(2) has, for at least 10 years, resided and hunted in the area of the state in which the applicant is to guide-outfit;

(3) is able to perform the duties of a marine mammal guide-outfitter;

(4) has demonstrated knowledge of the following areas to an extent and degree satisfactory to the board:

(A) current fish and game laws and regulations;

(B) relevant characteristics of the specific species to be hunted;

(C) field preparation of trophies;

(D) care of game meat;

(E) use of guide-outfitting gear;

- (F) firearm safety;
- (G) practical first aid; and
- (H) booking and contracting hunts;

(5) has not been convicted of violating a state or federal game or guide-outfitting statute or regulation during the previous five years for which the person was fined more than \$500 or imprisoned for more than five days;

(6) possesses a business license to provide guide-outfitting services; and

(7) has paid the license fee and has applied for a commercial use permit [FEE].

\* Sec. 7. AS 08.54.370(a) is amended to read:

(a) An applicant for renewal of a guide-outfitter license or a marine mammal guide-outfitter license shall submit with the application for renewal

(1) the hunt record required under AS 08.54.550 for the period covered by the current license;

(2) the license fee for the next licensing period; [AND]

(3) the commercial use permit fee for the [NEXT LICENSING] period covered by the current permit; and

(4) an amended guide-outfitter use area operations plan, if appropriate.

\* Sec. 8. AS 08.54.400(a) is amended to read:

(a) A person is entitled to a transporter license if the person

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

(2) pays the license fee;

(3) applies for a [PAYS THE] commercial use permit [FEE];

(4) provides proof of

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

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

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

\* Sec. 9. AS 08.54.400(c) is amended to read:

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

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

(2) the license fee for the next licensing period;

(3) the commercial use permit fee for the [NEXT LICENSING] period covered by the current permit; and

(4) proof of

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

(B) licensure by the Coast Guard to carry passengers

for hire, if the applicant provides water transportation services to big game hunters and if licensure is required by the Coast Guard.

\* Sec. 10. AS 08.54.460(a) is amended to read:

(a) A person, other than a guide-outfitter, marine mammal guide-outfitter, or a transporter, who provides other big game commercial services for compensation shall register with the board on a form provided by the board and shall obtain a commercial use permit and pay the annual commercial use permit fee set by the department in consultation with the board [UNDER AS 08.54.470]. In this section, "other big game commercial services" includes provision of accommodations in the field at a permanent lodge, house, or cabin owned by the commercial use permit holder, hunt broker services, gear rental services, photographic or videographic services, and services as defined by the board by regulation.

\* Sec. 11. AS 08.54.470(a) is amended to read:

(a) A person who is licensed under this chapter as a guide-outfitter, marine mammal guide-outfitter, or transporter shall obtain an annual commercial use permit. The [AND PAY AN] annual commercial use permit fee shall be paid as set out in this section.

\* Sec. 12. AS 08.54.470(b) is repealed and reenacted to read:

(b) The commercial use permit fee shall be

(1) set by the department, in consultation with the board, for transporters on the basis of a progressive fee in proportion to the number of big game hunters transported by the transporter during the period for which the permit was issued;

(2) for guide-outfitters and marine mammal guide-outfitters, equal to the following amounts based on the number of clients guide-outfitted by the guide-outfitter or marine mammal guide-outfitter during the period for which the permit was issued:

0 - 5 clients	\$ 250
6 - 10 clients	500
11 - 15 clients	750
16 - 20 clients	1,000
21 - 25 clients	1,500
26 - 30 clients	2,000
31 or more clients	2,500.

\* Sec. 13. AS 08.54.470(c) is amended to read:

(c) A guide-outfitter, marine mammal guide-outfitter, and transporter shall pay the commercial use permit fee at the time of application for [ISSUANCE OR] renewal of a guide-outfitter license, marine mammal guide-outfitter license, or transporter license. If the guide-outfitter, marine mammal guide-outfitter, or transporter does not apply for renewal of the guide-outfitter license, marine mammal guide-outfitter license, or transporter license, the commercial use permit fee shall be paid within 30 days after the end of the annual period for which the commercial use permit was issued."

Renumber the following bill sections accordingly.

Page 15, line 19:

Delete "sec. 4"

Insert "sec. 5"

Page 16, following line 2:

Insert a new bill section to read:

"\* Sec. 18. TRANSITION; COMMERCIAL USE PERMIT FEE FOR 1991 AND SUBSEQUENT YEARS. AS 08.54.350(a), as amended by sec. 4 of this Act, AS 08.54.-360(a), as amended by sec. 6 of this Act, AS 08.54.370(a), as amended by sec. 7 of this Act, AS 08.54.400(a), as amended by sec. 8 of this Act, AS 08.54.400(c), as amended by sec. 9 of this Act, AS 08.54.470(a), as amended by sec. 11 of this Act, AS 08.54.470(b), as amended by sec. 12 of this Act, and AS 08.54.470(c), as amended by sec. 13 of this Act apply to initial applications for and renewals of guide-outfitter licenses, marine mammal guide-outfitter licenses, and transporter licenses for 1991 and subsequent years and to payment of commercial use permit fees for 1991 and subsequent years. Applicants for guide-outfitter licenses, marine mammal guide-outfitter licenses, and transporter licenses for 1990 or for renewal of these licenses for 1990 shall pay the commercial use permit fee in accordance with AS 08.54 as it existed on the day before the effective date of this section."

Renumber the following bill sections accordingly.

A M E N D M E N T

↓  
Sen. Fahrenkamp  
w/ memo

OFFERED IN THE SENATE

TO: SB 422

Page 9, line 27 through page 10, line 3:

Delete all material.

Reletter the following subsections accordingly.

STATE OF ALASKA  
THE LEGISLATURE

COPY

POUCH Y - STATE CAPITOL  
JUNEAU ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 21, 1990

SUBJECT: Proposed amendment relating to assignments of  
use area permits (6-1718Aaa)

TC: Senator Bettye Fahrenkamp  
Chair Senate Resources Committee

FROM: George Utermohle  
Legislative Counsel

Amendment 6-1718Aaa to SB 422 proposes the deletion of subsection (b) from AS 08.54.670 (Page 9, line 27 through page 10, line 3).

The material to be deleted prevents a guide-outfitter from selling lodges, cabins, boats, aircraft, and other equipment to another guide-outfitter who is the assignee of a use area permit formerly held by the seller of the property and equipment at a price that exceeded the replacement value of the property.

One of the objections that the Alaska Supreme Court had to the former exclusive guiding area system in the Owsichek decision was that the guides could treat an exclusive guiding area as personal property and sell it to other guides. The ability of a guide to sell an exclusive guiding area was one of those attributes of an exclusive franchise to use game that the court found to violate the common use clause of the Alaska Constitution. The Task Force on Guiding and Game addressed this issue in its proposal for guide-outfitter use areas by allowing guide-outfitters to assign their use areas to other guide-outfitters but prohibited them from selling the permit or otherwise receiving anything of value in exchange for the assignment of the permit. In order to prevent a guide-outfitter from receiving a payment for the assignment of the permit under the guise of selling other property to the assignee, the Task Force prohibited the guide-outfitter from receiving more than the replacement value for the property. The assumption was that if the assignee of the permit paid more than the replacement value of

*Sen. Fahrenkamp*

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 422 (Resources)

Page 17, line 14, after "carriage":

Insert ", to, from, or in the field,"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 448

Page 1, line 9, after "services":

Insert "; and providing for an effective date"

Page 16, following line 2:

Insert a new bill section to read:

"\* Sec. 11. The operation of AS 08.54.440 is suspended until January 1, 1991."

*6-2021Ac  
Utermohle  
noticing  
6-11-90  
6-11-90  
6-11-90  
6-11-90*

Renumber the following bill section accordingly.

Page 16, following line 6:

Insert a new bill section to read:

"\* Sec. 13. Section 11 of this Act is retroactive to May 12, 1989."

Renumber the following bill section accordingly.

Page 16, following line 7:

Insert a new bill section to read:

"\* Sec. 15. Sections 11 and 13 of this Act take effect immediately under AS 01.10.070(c)."

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 448

Page 3, following line 15:

Insert a new subsection to read:

"(c) AS 08.54.620 - 08.54.690 do not apply within an area or to the activities of a guide-outfitter within an area of the state that is not included within the boundary of a guide-outfitter use area adopted by the board."

*under all low season  
transition*

*1 1/2 - 2 yrs*

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 448

Page 4, line 8:

Delete "or"

Insert ", "

*Comes  
back  
to the  
board  
and is  
then offered*

Page 4, line 9:

After "permittee":

Insert ", automatically revoked under AS 08.54.660,"

After "offered":

Insert "by the board"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 448

Page 9, following line 17:

Insert a new subsection to read:

"(a) Except as provided in this section, a use area may not be sold, leased, or otherwise assigned."

Reletter the following subsections accordingly.

Ag

Transfer  
of permit

Article

Use area

to not be used  
from under ground

Use area permit  
should become B

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 448

Page 12, following line 3:

Insert a new bill section to read:

"\* Sec. 6. AS 08.54.470 is amended by adding a new subsection to read:

(e) Notwithstanding (a) of this section and AS 08.54.370, a person who is licensed under this chapter as a guide-outfitter but who is retired from or does not engage in guide-outfitting activities is exempt from requirements to obtain a commercial use permit and to pay the commercial use permit fee. The department shall adopt regulations to implement this subsection."

Renumber the following bill sections accordingly.

*Added  
to HB 448  
by  
Utermohle*

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 448

Page 12, line 27 through page 13, line 10:

Delete all material.

Insert a new bill section to read:

"\* Sec. 7. AS 08.54.590(13) is repealed and reenacted to read:

(13) "transportation services" means carriage of or advertising to carry, for compensation, big game hunters, their equipment, or big game animals harvested by hunters to, from, or in the field; "transportation services" does not include the carriage by aircraft of big game hunters, their equipment, or big game animals harvested by hunters on nonstop flights between state or federally maintained airports or float plane docks;"

*- deleting all  
reference  
to incidental  
I have copied  
this of [unclear]*

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. FOSTER

TO: HB 448

Page 13, lines 6 - 10:

Delete all material and insert:

"(B) by an air taxi operator or air carrier

(i) for which the carriage of big game hunters, their equipment, or big game animals harvested by hunters is only an incidental, as defined by the board, portion of its business;

(ii) who does not advertise big game commercial services to the public; or

(iii) who does not charge more than the usual tariff or charter rate for the carriage of big game hunters, their equipment, or big game animals harvested by hunters;"

*Pick up these  
afford PKG  
prices*

*Impact on  
the by transp.  
services in the  
state  
- that has to do with  
restrict all things  
when it comes to  
or persons involved  
new  
transportation*

*understand  
the  
business*

*OK all  
carriers*

*the impact on*

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 448

Page 1, line 9, after "services":

Insert ", and commercial use permits"

Page 8, lines 23 - 25:

Delete all material.

Reletter the following subsections accordingly.

Page 11, line 28, after ";":

Insert "and"

Page 12, lines 1 - 3:

Delete "; and

(5) the wildlife conservation fee for the period covered by  
the current license"

Page 12, lines 4 - 26:

Delete all material and insert:

"\* Sec. 6. AS 08.54.460(a) is amended to read:

(a) A person, other than a guide-outfitter, marine mammal guide-outfitter, or a transporter, who provides other big game commercial

services for compensation shall register with the board on a form provided by the board and shall obtain a commercial use permit and pay the annual commercial use permit fee set by the department in consultation with the board [UNDER AS 08.54.470]. In this section, "other big game commercial services" includes provision of accommodations in the field at a permanent lodge, house, or cabin owned by the commercial use permit holder, hunt broker services, gear rental services, photographic or videographic services, and services as defined by the board by regulation.

\* Sec. 7. AS 08.54.470(b) is amended to read:

(b) The department, in consultation with the board, shall set the amount of the commercial use permit fee for

(1) transporters;

(2) marine mammal guide-outfitters;

(3) guide-outfitters who do not hold a registration permit or guide-outfitter use area permit;

(4) guide-outfitters who hold a registration permit but do not hold a guide-outfitter use area permit; and

(5) guide-outfitters who hold a guide-outfitter use area permit; the fee for a commercial use permit under this paragraph shall be based on the number of clients permitted under the use area permit, the size of the use area, the term of the use area permit, the big game species to be hunted under the use area permit, and the number of use area permits held by the guide-outfitter but may not exceed \$1,500 for each use area permit held by the guide-outfitter."

Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. MENARD

TO: CSHB 448 (Resources)

Page 11, following line 13:

Insert a new bill section to read:

"\* Sec. 4. AS 08.54.350(a) is amended to read:

(a) A natural person is entitled to a guide-outfitter license if the person

(1) is 21 years of age or older;

(2) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of meat and trophies, first aid, photography, and related guide-outfitting activities;

(3) is familiar with the terrain and transportation problems in the game management unit for which the license is requested;

(4) has passed the qualification examinations prepared and administered by the board;

(5) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a state or federal hunting or guide-outfitting statute or regulation within the last five years for which the person was fined more than \$500 or imprisoned for more than five days;

(6) has legally hunted in the state for part of each of any five years in a manner directly contributing to the person's

experience and competency as a guide-outfitter;

(7) has been licensed as and performed the services of a class-A assistant guide-outfitter or assistant guide-outfitter in the state for a part of each of three years, or has guide-outfitted in the state for a part of each of three years under a marine mammal guide-outfitter license issued under AS 08.54.360;

(8) has demonstrated a current knowledge of fishing, hunting, and guide-outfitting regulations;

(9) is capable of performing the essential duties associated with guide-outfitting;

(10) has been favorably recommended in writing by six big game hunters, two for each year of the person's most recent three years as a class-A assistant guide-outfitter or assistant guide-outfitter; when the person has guide-outfitted or assisted in guide-outfitting as a class-A assistant guide-outfitter or assistant guide-outfitter, whose recommendations have been solicited by the board from a list provided by the applicant;

(11) possesses a business license to provide guide-outfitting services; and

(12) has paid the license fee and has applied for a commercial use permit [FEE]."

*pd fee  
+ has  
applied  
for*

Renumber the following bill section accordingly.

*8/15/90  
W.C.F.  
- Board of Wildlife  
- 1100 E. 1st Street  
- Anchorage, Alaska*

Page 11, line 26, through page 12, line 7:

Delete all material and insert:

"\* Sec. 6. AS 08.54.360(a) is amended to read:

(a) The board may issue a marine mammal guide-outfitter license to a natural person who applies to guide-outfit a hunt for a specific species of marine mammal in a specifically designated area if the person

(1) is 21 years of age or older;

(2) has, for at least 10 years, resided and hunted in the area of the state in which the applicant is to guide-outfit;

(3) is able to perform the duties of a marine mammal guide-outfitter;

(4) has demonstrated knowledge of the following areas to an extent and degree satisfactory to the board:

(A) current fish and game laws and regulations;

(B) relevant characteristics of the specific species to be hunted;

(C) field preparation of trophies;

(D) care of game meat;

(E) use of guide-outfitting gear;

(F) firearm safety;

(G) practical first aid; and

(H) booking and contracting hunts;

(5) has not been convicted of violating a state or federal game or guide-outfitting statute or regulation during the previous five years for which the person was fined more than \$500 or imprisoned for more than five days;

(6) possesses a business license to provide

guide-outfitting services; and

(7) has paid the license fee and has applied for a commercial use permit [FEE].

\* Sec. 7. AS 08.54.370(a) is amended to read:

(a) An applicant for renewal of a guide-outfitter license or a marine mammal guide-outfitter license shall submit with the application for renewal

(1) the hunt record required under AS 08.54.550 for the period covered by the current license;

(2) the license fee for the next licensing period; [AND]

(3) the commercial use permit fee for the [NEXT LICENSING] period covered by the current permit; and

(4) an amended guide-outfitter use area operations plan, if appropriate.

\* Sec. 8. AS 08.54.400(a) is amended to read:

(a) A person is entitled to a transporter license if the person

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

(2) pays the license fee;

(3) applies for a [PAYS THE] commercial use permit [FEE];

(4) provides proof of

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

(B) licensure by the Coast Guard to carry passengers for hire, if the person provides water transportation services to

*W.M.M.*  
*same*  
*has applied for*

*renewing w/ff of clients + hunt record*

*transporter*

*applies for*

*Section 7  
C.F.R. Part 135  
air taxi/commercial operator certificate  
issued by the Federal Aviation Administration  
under 14 C.F.R. Part 135, if the person provides  
air transportation services to big game hunters;  
licensure by the Coast Guard to carry passengers  
for hire, if the person provides water transportation  
services to*

big game hunters and if licensure is required by the Coast Guard;  
and

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

\* Sec. 9. AS 08.54.400(c) is amended to read:

*Renewal*

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

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

(2) the license fee for the next licensing period;

(3) the commercial use permit fee for the [NEXT LICENSING]

*for period* {

period covered by the current permit; and

(4) proof of

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

(B) licensure by the Coast Guard to carry passengers for hire, if the applicant provides water transportation services to big game hunters and if licensure is required by the Coast Guard."

Renumber the following bill section accordingly.

Page 12, line 20, through page 13, line 6:

Delete all material and insert:

CUP

\*\* Sec. 11. AS 08.54.470(a) is amended to read:

(a) A person who is licensed under this chapter as a guide-outfitter, marine mammal guide-outfitter, or transporter shall obtain an annual commercial use permit. The [AND PAY AN] annual commercial use permit fee shall be paid as set out in this section.

pay fee CUP

\* Sec. 12. AS 08.54.470(b) is repealed and reenacted to read:

(b) The commercial use permit fee shall be

transporter

(1) set by the department, in consultation with the board, for transporters on the basis of a progressive fee in proportion to the number of big game hunters transported by the transporter during the period for which the permit was issued; *Per set*

guide-out

(2) for guide-outfitters and marine mammal guide-outfitters, equal to the following amounts based on the number of clients guide-outfitted by the guide-outfitter or marine mammal guide-outfitter during the period for which the permit was issued:

0 - 5 clients	\$ 250
6 - 10 clients	500
11 - 15 clients	750
16 - 20 clients	1,000
21 - 25 clients	1,500
26 - 30 clients	2,000
31 or more clients	2,500.

just one fee + renewal fee

\* Sec. 13. AS 08.54.470(c) is amended to read:

(c) A guide-outfitter, marine mammal guide-outfitter, and transporter shall pay the commercial use permit fee at the time of application for [ISSUANCE OR] renewal of a guide-outfitter license, marine

mammal guide-outfitter license, or transporter license. If the guide-outfitter, marine mammal guide-outfitter, or transporter does not apply for renewal of the guide-outfitter license, marine mammal guide-outfitter license, or transporter license, the commercial use permit fee shall be paid within 30 days after the end of the annual period for which the commercial use permit was issued."

Renumber the following bill sections accordingly.

Page 16, line 1:

Delete "sec. 4"

Insert "sec. 5"

Page 16, following line 15:

Insert a new bill section to read:

"\* Sec. 20. TRANSITION; COMMERCIAL USE PERMIT FEE FOR 1991 AND SUBSEQUENT YEARS. AS 08.54.350(a), as amended by sec. 4 of this Act, AS 08.54.-360(a), as amended by sec. 6 of this Act, AS 08.54.370(a), as amended by sec. 7 of this Act, AS 08.54.400(a), as amended by sec. 8 of this Act, AS 08.54.400(c), as amended by sec. 9 of this Act, AS 08.54.470(a), as amended by sec. 11 of this Act, AS 08.54.470(b), as amended by sec. 12 of this Act, and AS 08.54.470(c), as amended by sec. 13 of this Act apply to initial applications + renewals of guide-outfitter licenses, marine mammal guide-outfitter licenses, and transporter licenses for 1991 and subsequent years and to payment of commercial use permit fees for 1991 and subsequent years. Applicants for guide-outfitter licenses, marine mammal guide-outfitter licenses, and

*applies to renewals of licenses 1991*  
*e.f.d. 1991?*

transporter licenses for 1990 or for renewal of these licenses for 199 shall pay the commercial use permit fee in accordance with AS 08.54 as it existed on the day before the effective date of this section."

Renumber the following bill sections accordingly.

Page 16, line 20:

Delete "Section 13"

Insert "Section 19"

Page 16, line 26:

Delete "13 and 15"

Insert "19 and 22"

3/9/90

new:

① legal =

→ new  
fair + equal opportunity  
do not have a leg. up.

② AG =

will be challenged by it  
1st year critical

As important in AS  
affirmative action = no

Draft CS:  
P4  
13-16

rtn to the board. Not necessary.

P8  
L 28-29

if no lic

P9  
L 21, 22 - sold lease or otherwise assigned

→ S.L. syst. - conveyed transferred  
define by reg - otherwise assigned

P10 (c) L 3-8

P10 L 3-8

value permit - value lodge =

→ free market

- RB thinks guides would love to  
have it out.

- BK - will I with Steve

P6 - Section 12

Amend

Sec 20 =

*draft*

AMENDMENT NO. 2

OFFERED IN THE SENATE

TO: CSSB 422(Resources):

Page 17, Line 28, after "docks":

Insert: " , unless the air taxi operator or air carrier providing transportation services on flights between maintained airports advertises big game commercial ~~hunting~~ services that benefit an air taxi operator or air carrier that is a subsidiary, affiliate, or contractor of the air taxi operator or air carrier advertising its services"

Page 18, Line 3, after "hunters":

Insert: " , unless the operator or carrier providing transportation services advertises big game commercial ~~hunting~~ services; in this paragraph, "advertises" or "advertising" means soliciting big game hunters to be customers of an air taxi operator or air carrier for the purpose of providing air transportation to, from, or in the field through the use of print or electronic media specifically directed to big game hunters, including advertising at trade shows or the use of hunt broker services"

*or other promotional services  
mm*

*adopted Sen Fin*

09910/rpb

AMENDMENT NO. 3 *12*

*draft*

OFFERED IN THE SENATE

TO: CSSB 422(Resources)

Page 21, Line 15:

Insert a new section to read:

*1/20/91*

"\* Sec. 22. TRANSITION; AIR CARRIER ADVERTISING. Air taxi operators or air carriers not required under Sec. 16 of this Act to be licensed as a transporter on or before January 1, 1991 but whose publicity brochures or other print media produced prior to June 1, 1990 contain advertisements for big game commercial hunting services that remain in circulation or use after January 1, 1991 will not be considered as advertising big game commercial hunting services through December 31, 1991. In no event will an air carrier be required to become licensed as an operator simply because print media produced prior to June 30, 1990 was still in circulation after December 31, 1991."

Renumber the following sections accordingly.

Page 21, Line 22, after "AS 01.10.070(c)":

Insert new sections to read:

"\* Sec. 26. Subparagraphs (A) and (B) of AS 08.54.590(13), as contained in Section 16 of this Act, take effect on January 1, 1991."

0655o/rpb

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. FOSTER

TO: HB 448

Page 13, lines 6 - 10:

Delete all material and insert:

"(B) by an air taxi operator or air carrier

(i) for which the carriage of big game hunters, their equipment, or big game animals harvested by hunters is only an incidental, as defined by the board, portion of its business;

(ii) who does not advertise big game commercial services to the public; or

(iii) who does not charge more than the usual tariff or charter rate for the carriage of big game hunters, their equipment, or big game animals harvested by hunters;"

February 28, 1990

MEMORANDUM:

TO: Jan  
FROM: Mark  
SUBJECT: Amendment to Guide Area Bill - SB 422

A staff meeting was held at House Resources to discuss five problem areas with the guide area bill. Participants included Johanna Munson of House Resources, Nancy Peterson of Senate Resources, Beth Kerttula and Steve White of AG's office, Randall Burns of Occup. Licensing and me.

AREAS OF CONCERN:

- (1) Transporters and word "incidental"
  - (2) Wildlife Conservation Fee
  - (3) Transition Period for the bill
  - (4) Prohibition on leasing and sale of areas
  - (5) Effective date of legislation
- Plus the Andy Kline situation  
Plus clarification of part of bill

TRANSPORTERS/"incidental"

Amend existing law from last year to eliminate the word "incidental" and simply replace it with the definition used for incidental - removing the red flag. would say something like a transporter is one who flies into the field and/or advertises.

WILDLIFE CONSERVATION FEE

It was determined to be most expedient to expand the Commercial Use Permit fee and ELIMINATE the Wildlife Conservation fee. (consolidate as much into CUP as possible while eliminating as many fees as possible)

Establish the fee for guide-outfitters WITH areas, those WITHOUT areas and separately for transporters. Establish a CAP for the fee - possibly \$1000 and have fee determined by area SIZE and length of TERM (Randall will speak with

Marianne See at F&G regarding determining fee by area size)

(Randall suggested working backward to determine fee - how much money is needed, how many guides/etc, how much from each)

TRANSITION PERIOD

Need language to enable operation under existing scheme until new law takes effect.

PROHIBITION OF LEASING AND SALE

Assist AG Steve White noted there is no prohibition on an area permit holder from selling or leasing etc. Need to add statement: "holder of an area permit cannot sell, lease or transfer a use area permit"

EFFECTIVE DATE

Bill has no specific effective date. It was determined best to leave as is. -----

SEPARATE SUBJECTS:

\*\*The former guide-outfitters who's licenses have lapsed - i.e. Andy Kline - under existing law passed last year, they must take test, etc if license is lapsed more than two years. Randall offered suggested amendment to provide a 4 year time period. This would affect about half dozen people.

NOTE: Ken Owsichek has now paid his back license fees and is to or has received his guide-outfitter license.

\*\*Burns requested a wording change to the bill - page four line 8

(d) Use areas for which use area permits have expired <,> eliminate "or" been relinquished by the permittee or revoked by the board <add:"return automatically to the board and"...> may be offered at the next offering of use areas.

The group agreed this would clarify the passage to show that when an area permit is relinquished, etc, it automatically goes BACK to the board and MAY then be offered for lease.

Johanna Munson of Rep. Menard's office will contact George Utermohle to complete the amendments.

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**Sec. 08.54.460. Commercial use permit holder.** (a) A person, other than a guide-outfitter, marine mammal guide-outfitter, or a transporter, who provides other big game commercial services for compensation shall register with the board on a form provided by the board and shall obtain a commercial use permit and pay the annual commercial use permit fee set under AS 08.54.470. In this section "other big game commercial services" includes provision of accommodations in the field at a permanent lodge, house, or cabin owned by the commercial use permit holder, hunt broker services, gear rental services, photographic or videographic services, and services as defined by the board by regulation.

(b) A commercial use permit may not be issued to a hunting club. A hunting club may not provide other big game commercial services for compensation. (§ 3 ch 37 SLA 1989)

**Sec. 08.54.470. Commercial use permit and fee.** (a) A person who is licensed under this chapter as a guide-outfitter, marine mammal guide-outfitter, or transporter shall obtain an annual commercial use permit and pay an annual commercial use permit fee.

(b) The department, in consultation with the board, shall set the amount of the commercial use permit fee.

(c) A guide-outfitter, marine mammal guide-outfitter, and transporter shall pay the commercial use permit fee at the time of application for issuance or renewal of a guide-outfitter license, marine mammal guide-outfitter license, or transporter license.

(d) The commissioner of administration shall separately account for commercial use permit fees deposited in the general fund by the department. The annual estimated balance in the account may be used by the legislature to make appropriations to the Department of Fish and Game and the Department of Public Safety to carry out their respective responsibilities for management of game resources and enforcement of game laws. (§ 3 ch 37 SLA 1989)

**Article 3. Discipline and Unlawful Acts.**

<b>Section</b>	<b>Section</b>
500. Discipline of guide-outfitters	520. Unlawful acts
505. Discipline of transporters and commercial use permittees	530. Injunction against unlawful action
510. Discipline; general provisions	540. Responsibility of guide-outfitter for violations

**Effective date of article.** — Section 500, 505, and 510 effective May 12, 1989, in accordance with AS 01.10.070(c). Section 520, 530, and 540 effective May 12, 1989, in accordance with AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. BINKLEY

TO: CSSB 422 (Resources)

Page 18, line 3, after "hunters":

Insert "; in this paragraph, "advertising" means soliciting big game hunters to be customers of an air carrier for the purpose of providing air transportation to, from, or in the field through the use of print or electronic media specifically directed to big game hunters, through trade shows, or through hunt broker services; "advertising" does not include the use of nonspecific promotional materials that may use the terms "hunting" or "big game hunting" in a list of activities such as sightseeing, photography, fishing, backpacking, and other outdoor activities"

*however  
nonspecific promotional materials do not include  
brochures*

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. BINKLEY

TO: CSSB 422 (Resources)

Page 14, line 17, after "permit":

Insert ", if required under AS 08.54.470"

Page 15, line 7, following "permit":

Insert ", if the applicant was required to obtain a permit under AS 08.54.470"

Page 16, line 3, following ".":

Insert "However, a transporter<sup>who does not</sup> who provides only air transportation services and who does not charge more than the usual tariff or charter rate for the carriage of big game hunters, their equipment, or big game animals harvested by hunters is exempt from the requirement to obtain a commercial use permit or to pay the commercial use permit fee."

4/16/90

TELECOPY COVER SHEET  
SENATOR BETTYE FAHRENKAMP  
(907) 465-3834

TO: Mr. Bill Horn

FOR: \_\_\_\_\_

PHONE: \_\_\_\_\_

FROM: Nancy, Sen. Fahrenkamp's etc.

PHONE: \_\_\_\_\_

INSTRUCTIONS: The House Judiciary Committee is considering adopting this language. (The guides hired an atty who is forwarding this lang.) Do the changes in criteria meet the "open access to the

DATE/TIME SENT: \_\_\_\_\_

PLEASE ACK. RECEIPT: \_\_\_\_\_

NUMBER OF PAGES (NOT COUNTING COVER SHEET): \_\_\_\_\_

*system, or is it stacked to favor seniority? We'd appreciate your scrutiny + comments. The bill is up in senate finance, perhaps as early as tomorrow morning.*

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 448 (Resources)

Page 6, line 8, through page 8, line 9:

Delete all material and insert:

"Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA PERMIT. (a) The board shall adopt by regulation procedures for evaluating and ranking the qualifications of applicants for guide-outfitter use area permits. The procedures must appropriately balance the criteria included under (b) of this section to ensure that all applicants are afforded a fair opportunity to obtain a use area permit in those game management units for which the applicant is certified by the board. The board may adopt regulations to define or clarify the criteria set out in (b) of this section.

(b) The board shall evaluate each application to determine whether the applicant is qualified for a guide-outfitter use area permit using the following criteria:

(1) the applicant's ability and means to provide the guide-outfitting services proposed in the applicant's operations plan;

(2) whether the applicant has the financial capability to carry out the guide-outfitting services proposed in the applicant's operations plan;

(3) the applicant's history of safety in guide-outfitting hunts or demonstrated ability to guide-outfit hunts safely;

(4) the applicant's history of compliance with state and federal fish and game and guide-outfitting statutes and regulations;

(5) the applicant's

(A) experience, including experience as a guide-outfitter, an assistant guide-outfitter, or as a participant in activities directly related to guide-outfitting operations;

(B) knowledge of the use area, including knowledge of the geography, climatic conditions, flora and fauna, and similar knowledge, including knowledge obtained by big game hunting in the use area, that would assist the applicant in guide-outfitting hunts in the use area;

(6) the applicant's history of compliance with AS 08.54.-520(a) in regard to prior authorization to enter or remain on state, federal, or private land;

(7) whether the applicant has obtained those prior authorizations to guide-outfit hunts on state, federal, or private land in the use area from the significant or major landowners in the use area or has demonstrated the ability to acquire those authorizations;

(8) whether the applicant holds all permits and licenses necessary to guide-outfit hunts in the use area or has demonstrated the ability to obtain the necessary permits and licenses.

(c) The board shall award a use area permit only to a qualified applicant. If the board determines that more applicants are qualified to receive a use area permit for a use area than there are use area permits available, then the board shall rank all applicants for the use area permit and shall select the best qualified applicants to

receive the available permits. The best qualified applicants are those who receive the highest ranking under the criteria set out in (b) of this section regulations adopted under (a) of this section.

(d) If a successful applicant does not provide, at the time the board awards the use area permit, proof of the permits and licenses necessary to guide-outfit hunts on state, federal, or private land in the use area from the significant or major landowners in the use area, the board shall issue a conditional use area permit that is valid for 120 days. A conditional use area permit does not entitle the permittee to guide-outfit hunts within the use area. If the successful applicant provides proof satisfactory to the board within 120 days after issuance of the conditional use area permit that the applicant has received the necessary permits and licenses and land use authorizations, the applicant shall be awarded a use area permit. If the successful applicant does not provide the required proof within 120 days after issuance of the conditional use area permit, the conditional use area permit is void. If a conditional use area permit is voided under this subsection, the board shall offer the use area permit to the next best qualified applicant for the use area."

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 448 (Resources)

Page 8, following line 9:

Insert a new section to read:

"Sec. 08.54.655. GUIDE-OUTFITTER USE AREA PERMIT FEE. (a) Notwithstanding AS 08.01.065, the department, in consultation with the board, shall set a fee for a guide-outfitter use area permit that

(1) reflects the economic value of the privileges conferred by the use area permit, taking into consideration the term for which the use area permit is issued, the number of clients that may be guide-outfitted in the use area under the use area permit, the big game species for which hunts may be guide-outfitted under the use area permit, and whether the use area permit is for sole or joint use of the use area; and

(2) ensures a fair return to the people of the state for the commercial use of the big game species in the use area.

(b) The commissioner of administration shall separately account for the use area permit fees deposited in the general fund by the department. The annual estimated balance in the account may be used by the legislature to make appropriations to the Department of Fish and Game and the Department of Public Safety to carry out their respective responsibilities for management of game resources and enforcement of game laws."

*Adopted*

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 448 (Resources)

Page 6, line 8, through page 8, line 9:

Delete all material and insert:

"Sec. 08.54.650. PROCEDURES FOR AWARING GUIDE-OUTFITTER USE AREA PERMIT. (a) The board shall adopt by regulation procedures for evaluating and ranking the qualifications of applicants for guide-outfitter use area permits. The procedures must appropriately balance the criteria included under (b) of this section to ensure that all applicants are afforded a fair opportunity to obtain a use area permit in those game management units for which the applicant is certified by the board. The board may adopt regulations to define or clarify the criteria set out in (b) of this section.

(b) The board shall evaluate each application to determine whether the applicant is qualified for a guide-outfitter use area permit using the following criteria:

(1) the applicant's ability and means to provide the guide-outfitting services proposed in the applicant's operations plan;

(2) whether the applicant has the financial capability to carry out the guide-outfitting services proposed in the applicant's operations plan;

(3) the applicant's history of safety in guide-outfitting hunts or demonstrated ability to guide-outfit hunts safely;

(4) the applicant's history of compliance with state and

federal fish and game and guide-outfitting statutes and regulations;

(5) the applicant's

(A) ~~big game~~ hunting experience <sup>AV more defensible</sup> [in the use area,]

including experience as a guide-outfitter, an assistant guide-outfitter, or as a participant in activities directly related to guide-outfitting operations; ~~and~~

(B) knowledge of the use area, including knowledge of the geography, climatic conditions, the flora and fauna, and similar knowledge, including knowledge obtained by <sup>big game</sup> hunting in the use area, that would assist the applicant in guide-outfitting hunts in the use area;

(6) the applicant's history of compliance with AS 08.54.-520(a) in regard to prior authorization to enter or remain on state, federal, or private land;

(7) whether the applicant has obtained those prior authorizations to guide-outfit hunts on state, federal, or private land in the use area from the significant or major landowners in the use area or has demonstrated the ability to acquire those authorizations;

(8) whether the applicant holds all permits and licenses necessary to guide-outfit hunts in the use area or has demonstrated the ability to obtain the necessary permits and licenses.

(c) The board shall award a use area permit only to a qualified applicant. If the board determines that more applicants are qualified to receive a use area permit for a use area than there are use area permits available, then the board shall rank all applicants for the use area permit and shall select the best qualified applicants to

receive the available permits. The best qualified applicants are those who receive the highest ranking under the criteria set out in (b) of this section regulations adopted under (a) of this section.

(d) If a successful applicant does not provide, at the time the board awards the use area permit, proof of the permits and licenses necessary to guide-outfit hunts on state, federal, or private land in the use area from the significant or major landowners in the use area, the board shall issue a conditional use area permit that is valid for 120 days. A conditional use area permit does not entitle the permittee to guide-outfit hunts within the use area. If the successful applicant provides proof satisfactory to the board within 120 days after issuance of the conditional use area permit that the applicant has received the necessary permits and licenses and land use authorizations, the applicant shall be awarded a use area permit. If the successful applicant does not provide the required proof within 120 days after issuance of the conditional use area permit, the conditional use area permit is void. If a conditional use area permit is voided under this subsection, the board shall offer the use area permit to the next best qualified applicant for the use area."

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 448 (Resources)

Page 6, line 8, through page 8, line 9:

Delete all material and insert:

"Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA PERMIT. (a) The board shall adopt by regulation procedures for evaluating and ranking the qualifications of applicants for guide-outfitter use area permits. The procedures must appropriately balance the criteria included under (b) of this section to ensure that all applicants are afforded a fair opportunity to obtain a use area permit in those game management units for which the applicant is certified by the board.

(b) The board shall evaluate each application to determine whether the applicant is qualified for a guide-outfitter use area permit using the following criteria:

(1) the applicant's ability and means to provide the guide-outfitting services proposed in the applicant's operations plan;

(2) whether the applicant has the financial capability to carry out the guide-outfitting services proposed in the applicant's operations plan;

(3) the applicant's history of safety in guide-outfitting hunts or demonstrated ability to guide-outfit hunts safely;

(4) the applicant's history of compliance with state and federal fish and game and guide-outfitting statutes and regulations;

(5) the applicant's <sup>OK</sup>

*Circle as is*  
(A) ~~big game hunting~~ <sup>OK</sup> experience [in the use area] including experience as a guide-outfitter, an assistant guide-outfitter, or as a participant in activities directly related to guide-outfitting operations; ~~and~~

(B) knowledge of the use area, including knowledge of the geography, climatic conditions, the flora and fauna, and similar knowledge, including knowledge obtained by ~~big game~~ hunting in the use area, that would assist the applicant in guide-outfitting hunts in the use area;

(6) the applicant's history of compliance with AS 08.54.-520(a) in regard to prior authorization to enter or remain on state, federal, or private land;

(7) whether the applicant has obtained those prior authorizations to guide-outfit hunts on state, federal, or private land in the use area from the significant or major landowners in the use area or has demonstrated the ability to acquire those authorizations;

(8) whether the applicant holds all permits and licenses necessary to guide-outfit hunts in the use area or has demonstrated the ability to obtain the necessary permits and licenses.

*changed*  
(c) The board may adopt regulations to define or clarify the criteria set out in (b) of this section.

(d) The board shall award a use area permit only to a qualified applicant. If the board determines that more applicants are qualified to receive a use area permit for a use area than there are use area permits available, then the board shall rank all applicants for the

use area permit and shall select the best qualified applicants to receive the available permits. The best qualified applicants are those who receive the highest ranking under the criteria set out in (b) of this section as defined or clarified by regulations, if any, adopted under (c) of this section.

(e) If a successful applicant does not provide, at the time the board awards the use area permit, proof of the permits and licenses necessary to guide-outfit hunts on state, federal, or private land in the use area from the significant or major landowners in the use area, the board shall issue a conditional use area permit that is valid for 120 days. A conditional use area permit does not entitle the permittee to guide-outfit hunts within the use area. If the successful applicant provides proof satisfactory to the board within 120 days after issuance of the conditional use area permit that the applicant has received the necessary permits and licenses and land use authorizations, the applicant shall be awarded a use area permit. If the successful applicant does not provide the required proof within 120 days after issuance of the conditional use area permit, the conditional use area permit is void. If a conditional use area permit is voided under this subsection, the board shall offer the use area permit to the next best qualified applicant for the use area."

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 448 (Resources)

Page 8, following line 9:

Insert a new section to read:

"Sec. 08.54.655. GUIDE-OUTFITTER USE AREA PERMIT FEE.  
Notwithstanding AS 08.01.065, the department shall set a fee for  
guide-outfitter use area permits that

(1) reflects the value of the privileges conferred by the  
use area permit, including the term for which the use area permit is  
issued, the number of clients that may be guide-outfitted in the use  
area under the use area permit, the big game species for which hunts  
may be guide-outfitted under the use area permit, and whether the use  
area permit is for sole or joint use of the use area; and

(2) ensures a fair return to the people of the state for  
the commercial use of the big game species in the use area."

CS SB 442(Res.) (Guide-Outfitters)

Sec. 08.54.650. PROCEDURES FOR AWARDING GUIDE-OUTFITTER USE AREA PERMIT. (a) The board shall adopt by regulation procedures for evaluating and ranking the qualifications of applicants for guide-outfitter use area permits. The procedures must appropriately balance the criteria included under (b) of this section to ensure that all applicants are afforded a fair opportunity to obtain a use area permit in those game management units for which the applicant is certified by the board.

(b) The board shall evaluate each application to determine whether the applicant is qualified for a guide-outfitter use area permit using the following criteria:

(1) the applicant's ability and means to provide the guide-outfitting services proposed in the applicant's operations plan;

(2) whether the applicant has the financial capability to carry out the guide-outfitting services proposed in the applicant's operations plan;

(3) the applicant's history of safety in guide-outfitting hunts or demonstrated ability to guide-outfit hunts safely;

(4) the applicant's history of compliance with state and federal fish and game and guide-outfitting statutes and regulations;

(a)

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E

~~hunters~~

(5) the applicant's <sup>hunters</sup> experience <sup>in</sup> the use area <sup>including</sup> experience as a guide, an assistant guide, or as a participant in activities directly related to guiding operations; ~~and~~ ~~OK?~~

(b)

(6) the applicant's knowledge of the use area, including knowledge of the geography of the area, the climatic conditions of the area, knowledge of the flora and fauna of the area, and similar knowledge that would assist the applicant in the guiding of hunts in the use area;

big gap

gained through including hunting

<sup>in the use area</sup> ~~including~~ ~~hunting~~

ok

(7) the applicant's history of compliance with AS 08.54.520(a) in regard to prior authorization to enter or remain on state, federal, or private land;

ok

(8) whether the applicant has obtained those prior authorizations to guide-outfit hunts on state, federal, or private land in the use area from the significant or major landowners in the use area or has demonstrated the ability to acquire those authorizations;

ok

(9) whether the applicant holds all permits and licenses necessary to guide-outfit hunts in the use area or has demonstrated the ability to obtain the necessary permits and licenses.

ok

(c) The board may adopt by regulation additional standards for the evaluation of applications in order to define or clarify the criteria provided under (b) of this section.

now

(d) The board shall award a use area permit only to a qualified applicant. If the board determines that more

applicants are qualified to receive a permit for a use area than there are use area permits available, then the board shall rank all applicants for the use area and shall select the best qualified applicants to receive the available permits. The best qualified applicants are those who receive the highest ranking under the criteria provided in (b) of this section and regulations adopted under (c) of this section.

*same*

(e) If a successful applicant does not provide, at the time the board awards the use area permit, proof of the permits and licenses necessary to guide-outfit hunts on state, federal, or private land in the use area from the significant or major landowners in the use area, the board shall issue a conditional use area permit that is valid for 120 days. A conditional use area permit does not entitle the permittee to guide-outfit hunts within the use area. If the successful applicant provides proof satisfactory to the board within 120 days after issuance of the conditional use area permit that the applicant has received the necessary permits and licenses and land use authorizations, the applicant shall be awarded a use area permit. If the successful applicant does not provide the required proof within 120 days after issuance of the conditional use area permit, the conditional use area permit is void. If a conditional use area permit is voided under this subsection, the board shall offer the use area permit to the next best qualified applicant for the use area.

AMENDMENT CONCERNING FEES:

I. Page 16, lines 5-21, delete all material and replace with the following:

\* Sec. 12. AS 08.54. 470(b) is repealed and re-enacted to read:

(b) The annual commercial use permit fee for a guide-outfitter is the sum of \$25 for each big game animal other than deer and \$5 for each deer taken by a client during the year. ~~The annual commercial use permit fee for a transporter is the sum of \$25 for each big game animal other than deer and \$5 for each deer that is (1) taken on a non-guide-outfitted hunt by a customer of the transporter, and (2) transported by the transporter.~~

min  
max  
gui-

II. At page 8, between lines 9 and 10, add a new section:

Sec. 08.54.655. SOLE OR JOINT USE AREA PERMIT FEE.

The board shall establish an annual permit fee for each guide-outfitter holding a sole or joint use area permit. The fee must be progressive, based on the number of clients guide-outfitted during the previous year by the guide-outfitter within the sole or joint use area for which the guide-outfitter holds a permit. ~~The~~ The minimum fee may not be less than \$250. ~~Guide-outfitters shall pay the fee at the time at the time for renewal of guide-outfitters' licenses. Failure to renew a guide-outfitter's license does not excuse payment of the fee. This fee is in addition to the commercial use permit fee established under AS 08.54.470.~~

→ Bd inst. to est a fee that will provide fair + reas. compensation to the state.

*Augross*

AMENDMENT

OFFERED IN THE SENATE

TO: CS SB 422 (Resources)

P. 6, Line 9, Replace (a) with the following:

(a) The board shall adopt procedures for evaluating the qualifications of applicants for guide-outfitter use area permits. The procedures must appropriately balance the criteria included under (b) of this section to ensure that all applicants are afforded a fair opportunity to obtain a use area permit in those game management units for which the applicant is certified by the board.

*not  
adopted  
H/Res*

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. FOSTER

TO: HB 448

Page 13, lines 6 - 10:

Delete all material and insert:

"(B) by an air taxi operator or air carrier

(i) for which the carriage of big game hunters, their equipment, or big game animals harvested by hunters is only an incidental, as defined by the board, portion of its business;

(ii) who does not advertise big game commercial services to the public; or

(iii) who does not charge more than the usual tariff or charter rate for the carriage of big game hunters, their equipment, or big game animals harvested by hunters;"

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

### DIVISION OF FISH & WILDLIFE PROTECTION

STEVE COWPER, GOVERNOR

ARTHUR ENGLISH  
COMMISSIONER

5700 EAST TUDOR ROAD  
ANCHORAGE, ALASKA 99507  
PHONE (907) 269-5509

April 18, 1990

The Honorable Senator Jan Faiks  
P.O. Box "V"  
Juneau, Alaska 99811

Dear Senator Faiks:

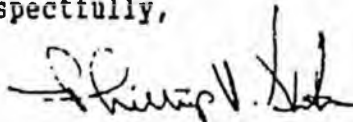
The attached memo from Sergeant D'Amico to myself is an expanded version of our testimony to the Senate Finance Committee on April 17, 1990.

I might add that this last fall on opening day of moose season I was present at an air taxi's base of operations. There were 100 hunters waiting to be flown out by that particular air taxi. To say that flying hunters into the field was an incidental part of his income is a farce. He and many others derive much of their income indirectly from Alaska's game animals through this flying.

As I'm sure you recall the vast majority of the task force members felt that the air taxis need to be regulated. It is my recollection that there was also a substantial amount of testimony from rural Alaska residents as for the significant impact air taxis played on game in their areas. To allow air taxis to operate with no threat of punishment is as much a crime as what big game guides did during the 1960's with aircraft and aerial hunting.

If I or any member of Fish and Wildlife Protection can be of further assistance please do not hesitate to contact me.

Respectfully,



Captain Phillip V. Gilson  
Enforcement Commander  
Fish and Wildlife Protection

cc: Commissioner English  
Colonel Jordan

PVG/cjn

# MEMORANDUM

# State of Alaska

TO: Captain Phil Gilson  
Enforcement Commander  
Fish & Wildlife Protection  
Anchorage

DATE: April 17, 1990

FILE NO:

TELEPHONE NO: 269-5671

FROM: Sergeant Joe D'Amico  
Commander-Statewide Investigations  
Fish and Wildlife Protection  
Anchorage

SUBJECT: Air Taxi/Transporter  
Legislation

After reviewing both the C.S. for HB 448 and the C.S. for SB 422, I believe that the CS HB 448 is a substantially better piece of legislation. There are several reasons for this conclusion; however, simply stated CS HB 448 has less loopholes and would be easier to enforce. The amendments added today to the CS for SB 422 cripple it in such a fashion that we really cannot use it.

As you know I was the field supervisor for our special program last fall in the Iliamna, Port Alsworth, and Sparrevohn areas. Additionally, I have reviewed, supervised, or personally investigated virtually all of the major "commercial" wildlife cases for the Division since 1986. These experiences, coupled with my personal knowledge and experience as pilot/trooper in Bethel and Glennallen have led me to the following conclusions:

1. The Alaska Legislature has been generally receptive, supportive, and helpful in combatting illegal and unethical hunting. My conclusion is based upon a sequence of events that occurred in recent Alaska "big game" history. During the late 1970s and early 1980s the big game guiding industry was riddled with violators. Same day airborne, wanton waste, and closed season violations were commonplace. Even with the frequent and successful use of covert (undercover) operations, many guides were able to stay in business and even prosper. This was not only due to our weak guiding laws, but also because of the light criminal sentences that were the usual products of the prosecutions.

With some industry support, we were able to work with the legislature as three different guide laws were passed. Additionally, in the early 1980s a simple, comprehensive, and effective "waste" law was passed to attack those problems. By the way, this "waste" law, unchanged, is still on the books and working today. One of the guiding laws, SB 191 was, during its short life, probably the toughest guiding law in the nation. Even our current, milder, version is among the better ones I have reviewed. Armed with these laws, we were able to actually deter and reduce (not displace) "guiding" and "waste" violations. There is always room for improvement; however, currently, our compliance level is at a substantially higher level than it has been for years. An interesting side note, this current legislature has considered, or already passed a law (CS HB 20) which will assist us in prosecuting cases with multiple defendants.

2. Problem number two was the so-called "outfitter" problem. A series of covert operations again revealed that violations by this group was commonplace. Again, with the help of the legislature, adequate laws were enacted which have helped to bring this problem under control.

The key in both of these success stories is that the legislation that was passed was fairly simple (as legislation goes), but more importantly; it was enforceable!

3. Our current problem is with the last and completely unregulated group (of any size) of commercial game harvesters—the air taxi/air carriers. I know that they consider themselves simply providers of transportation. However, the long and the short of it is that they profit from the taking of our big game resources. If that is not a commercial use, what is it? Let me illustrate to you that this "point to point transportation service" is not the service they portray or actually provide in most of the cases.

The troopers of my section and I have attended many of the major sports shows in the United States. While assisting us, "agents" from other law enforcement agencies, have attended additional shows. What we have found is that the advertisements presented to the prospective clients at these shows portray these services as far more than "point to point transportation". With large signs exclaiming titles such as "Hunt Alaska," "Alaska Big Game Hunting," "Alaska Trophy Hunting," I find it difficult to understand how those can be considered simply "taxi services." Additionally, their brochures, which further advertise and illustrate their services, do not focus on nice clean aircraft and professional looking pilots. Instead, many of their brochures largely focus on dead trophy Alaskan big game animals, and happy successful big game clients. They also have developed more than one brochure, one showing flightseeing and actual charter services, and another devoted primarily to hunting and fishing.

One of the most frustrating situations that I have endured in my present position is not being able to assist clients who have been "cheated" by the unethical air taxi operators. Our problem is simple, there are basically no criminal laws governing the behavior of air taxis with regard to the treatment of clients, or their actions regarding game laws. In addition, they are not required to have a state license that a board could take action on. Finally, for all practical purposes, we have no Consumer Protection Agency (one attorney for the whole state). When I have referred serious cases to the A.G.'s Consumer Protection Office, they have refused to take them because of their case load. They did however take one "client satisfaction" case and successfully prosecuted a big game guide, however.

The complaints lodged by clients against their air taxis have been very consistent over the years:

a) Failure to provide the meat pick ups that have been agreed upon, scheduled, promised, and, in some cases, even paid for. As you know Waste of a Wild Food Animal as a very serious crime in Alaska. Here is a common scenario that our F.W.P. Troopers are regularly faced with: the client of an air taxi hikes out, kills a moose, and packs all of the meat back to the lake or other drop off point. So far so good. The air taxi has agreed to pick up meat on day number 4 or 5 of this 14 day trip. But, the air taxi does not arrive until the 14th day. He claims the weather has precluded him from coming sooner. However, the client, and our own troopers have seen that same air taxi flying almost daily during this entire time period in the same area. Our investigation reveals that the air taxi was extremely overbooked, and the flying that was witnessed was him dropping off even more hunters into an already crowded area. Now, because of 10 extra days without refrigeration, the meat is rotten. Who is to blame?

Legally, Alaska law requires the hunter to salvage the meat for human consumption, the air taxi is not criminally liable. But when the client brings it to the pick up point hasn't he met his legal liability? Especially when you discover he scheduled a meat pickup with the only person who knew where he was? However, had this same scenario occurred on a guide-outfitted hunt, the guide-outfitter would have been held accountable either criminally through the courts, or civilly to the board for license action.

During the fall of 1989 hunting season, I personally was involved with several cases just like this. In some cases we were able to telephone the air taxi and "pressure" them into getting the meat picked up. But many times it was too little, too late, and many pounds of meat rotted. Many of those clients left Alaska unsatisfied and vowed to not return.

Currently, my Sergeant-Investigator is investigating the most egregious of these complaints, which incidentally, involves one of the most prominent air taxi business in Alaska. My plan is to review the case based on the theory of a fraud case. When the case is reviewed, we will present it to the District Attorney's Office. I am not optimistic that they will prosecute it, as the Anchorage D.A.'s office has a policy where they refuse to bring up out of state witnesses for anything less than "B" Felonies. Our budget does not provide for witness transportation. I do believe it is worth a try, as if we are unsuccessful, we may be able to go back to the legislature for some help.

b) "Bait and switch." What this means is that the clients and the air taxis agree on a price including the transportation of meat. But when the air taxi arrives to pick them up, he arrives with a smaller plane than agreed upon. This would require extra trips, which are not cheap. Or, he states (as relayed to me by more than one client group) "you have more meat than most clients, so we'll have to make another meat trip-by the way that will be an extra \$900."

c) Misleading the clients about the number of clients and or camps that will be in at the same location. Many of the clients are promised that they will be the only person at the "wilderness camp". But when they arrive, they not only find other camps filled with clients, but also find their air taxi putting some of those other clients there. In addition, they are dropped off by their air taxi as he is picking up someone from the very same location who has already been hunting and killing the game that they were to be the "only one hunting." Some of these small lakes had 5 camps all filled with different groups of clients on them when we checked them this past fall.

d) Putting the clients in locations that are not open to hunting. This is self-explanatory. But these "taxi" operators are only providing transportation from one point to another right? Wrong, many of these clients booked these trips at a sports show and were promised to be taken into an area all by themselves, "teeming with game." They relied on these "professionals." How does someone from the Midwest have any idea where they are after flying 1 or 2

hours through the mountains. Again, Alaska law holds the hunter responsible, not the air taxi. However, the guide-outfitter would be responsible, why shouldn't all commercial users have some responsibility for these tourists who contribute to our economy and are so very dependant on these "professionals?"

In one case, I found a two-person group in an established camp (a violation by itself) of an air taxi. They were happy to see me; their licenses and tags were in order. They were genuinely enjoying their trip to Alaska. They were dropped off for a 10 day combination hunt for moose and caribou. They were told by their air taxi operator that they were in a specific game management unit which was open for caribou and moose hunting. However, I had to inform them that they were in a different unit which closed for moose on the day I arrived. Fortunately, depending on how you look at it, they were in an area that held no moose, and probably had not in recent years.

In another case, I found some people dropped off on a moose hunt literally within 300 yards from a National Park which was closed to all but subsistence hunting, and was closed to hunting by means of aircraft transportation. They were from the lower 48 and each paid their air taxi \$600 to fly into this location. They were not told about the park by their air taxi. Fortunately, I arrived before they hunted in the park, and showed them the boundary so they could do some hunting in the other direction.

e) Putting clients in areas where no game or only one species is found. Many of these clients pay for "combination" hunts, i.e. moose/caribou, moose/black bear. Many times, I have found clients in low lying swamps many, many miles from where any caribou would even think about walking during the fall hunting season. Caribou do use some of those swamps in the winter and during calving, so technically I guess you could call it a caribou area. Some of the more reputable air taxi operators have contacted me about this practice and complained about their competitors. As an F.W.P. Trooper, what do I tell a client when he asks me where the caribou are, and I know that he has absolutely no chance of harvesting one during that time of year?

My conclusion is that the problems that we experienced with the guiding, and "outfitting" industries have been largely brought under control. We still have some violators, but we always will. Our covert and conventional law enforcement programs will continue to trim those violators. However, we do need some help with the air taxi problem.

My caution is this, I would rather have no law than something, so watered-down and unenforceable than some of the amendments I read today. The proposed law dealing with an air taxi's failure to turn in the required reports is unenforceable due to the culpable mental state required. In addition, what D.A. is going to take a "B" Misdemeanor to trial. We have difficulty getting Fish and Wildlife "A" Misdemeanors to trial; and they do not have such a high (intentional) culpable mental state. The amendments offered by the Air Carrier's Association, and even the ones offered by Director Burns make the legislation virtually unenforceable. Certainly unprosecutable, if not unenforceable.

April 17, 1990  
Air Taxi/Transporter  
Page 5

In conclusion sir, I am truly concerned about our ability or lack thereof of turning this one around. There are many ethical and honest air taxi operators. Some truly do not transport many hunters. However many do, and because of sheer numbers, this problem is so different compared with our earlier experiences with "guides" and "outfitter". Without some decent legislation governing this large commercial resource user group, I just do not see a way to address this problem short of ignoring it. We have no tools in our bag for this one.

If you have further questions, please contact me.



ALASKA AIR CARRIERS ASSOCIATION

4040 B Street • Anchorage, Alaska 99503 • (907) 562-1272

April 25, 1990

The Honorable Bettye Fahrenkamp  
Alaska State Legislature  
P. O. Box V  
Juneau, Alaska 99811

Dear Senator <sup>Bettye</sup> Fahrenkamp:

Please rest assured that the amendments adopted by the Senate Finance Committee to SB 422, as approved by the Senate, are not loopholes, nor do they prevent enforcement against transporters and air taxis as alleged in yesterday's floor debate.

There were only two significant changes in the Finance Committee to the Senate Resources Committee substitute. The first clarified the bill as it related to the use of brochures and printed material which was in circulation prior to April 1, 1990. Because the Department of Commerce and Economic Development intends to be strict in its application of SB 422's definition of advertising (i.e., to prohibit the use of the term(s) "hunting" or "big game hunting" in any ads or printed material) to determine whether an air carrier is required to be licensed as a transporter, it is necessary to prevent old brochures already in circulation from requiring licensure as a "transporter" as air carriers have no way of retrieving all such materials. The change was written by Randall Burns and reviewed by Molly McCammon from ADF&G prior to the Senate Finance hearing. It was amended and made retroactive to April 1, 1990 (from July 1, 1990) at the request of Mr. Pamplin during the hearing.

The amendment, as it was adopted by the Finance Committee and the Senate, prohibits any new advertising to solicit hunting customers. For example, new magazine or newspaper ads which run after the effective date of the bill would require an air carrier to be licensed as a transporter. We believe this to be a reasonable provision - not a "major loophole."

The second change relates to the commercial use fees which would be charged to transporters. This is a matter of finance and policy over which there exists a strong difference of opinion. AACA's view of the Owsichek decision is that the exclusive guide areas were ruled unconstitutional in part because

Senator Bettye Fahrenkamp  
April 25, 1990  
Page 2

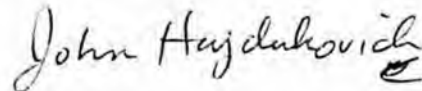
the guides were not paying the State for an exclusive franchise which involved the use of a public resource. SB 422 corrects that problem. To extend that argument to extract a commercial use fee from transporters who do not have exclusive rights to transport hunters, is not appropriate in our opinion. (See our enclosed position paper.) Please keep in mind that such fees are likely to be significant in relation to the cost of air fare and would also apply to resident hunters who are the major portion of hunters transported "to the field." If an air carrier advertises to attract hunting business, which it must if it wishes to even maintain its current business, then resident hunters will have to pay a special fee or surcharge equal to that determined by the Commercial Services Board. We are also very concerned that this precedent will be extended to transportation for sport fishing, rafting, photography and other uses of public resources "in the field," because the same logic applies to the "commercial use" of those resources.

Therefore, this amendment is not intended as a "loop-hole," a means to avoid enforcement of wanton waste laws or unethical behavior of air carriers. It is simply a policy debate on the appropriateness of the commercial use fee in this instance. If the Legislature wishes to fund wildlife enforcement at a higher level, then we suggest an increase in hunting license fees or big game tag fees as the most appropriate means to fund enforcement.

Also, please keep in mind that all air carriers must report the number of hunters they carry regardless of whether they are licensed as transporters. This will assist the Department of Fish and Game to get more timely information which would be of use in game management decisions.

Thank you for your continued assistance and hard work to obtain fair and reasonable legislation on this topic.

Very truly yours,



John Hajdukovich, President  
Alaska Air Carriers Association

## OVERSIGHT DECISION

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>

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)

3330

Scientific Name	Common Name	Range	Status	When listed	Critical habitat	Special rules
Boraginaceae—Borage family:						
<i>Cryptantha crassipes</i>	Teringua Creek cat's-eye	U.S.A. (TX)	E		NA	NA

Dated: February 28, 1990.  
 Richard N. Smith,  
 Acting Director, Fish and Wildlife Service.  
 [FR Doc. 90-8577 Filed 4-12-90; 8:45 am]  
 BILLING CODE 4310-35-M

**50 CFR Part 36**

**RIN 1018-AB43**

**Intention To Propose Interim Rules Implementing Title VIII of the Alaska National Interest Lands Conservation Act**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent to propose rules and request for comments.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces that it will be developing interim regulations pertaining to the implementation of the subsistence priority for rural residents of Alaska under title VIII of the Alaska National Interest Lands Conservation Act of 1980. The Alaska Supreme Court recently ruled that the laws used by the State of Alaska to provide the subsistence priority required by title VIII violated the Alaska Constitution. The Alaska Supreme Court stayed its decision until July 1, 1990. Should the State be unable to rectify the situation, the Federal government may be required to take over the implementation of title VIII on public lands on July 1, or potentially sooner.

**DATES:** For written comments to be considered in the initial drafting of the rules, they should be received by May 14, 1990.

**ADDRESSES:** Comments should be addressed to the Regional Director, ATTN: Glenn Ellison, 1011 E. Tudor Road, Anchorage, Alaska 99503.

**FOR FURTHER INFORMATION CONTACT:** Glenn Ellison, 1011 E. Tudor Road, Anchorage, Alaska 99503, telephone (907) 788-3542.

**SUPPLEMENTARY INFORMATION:** Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126) requires the Secretary of the

Interior to implement a program to grant preference in favor of subsistence uses of fish and wildlife on public lands unless the State of Alaska implements a subsistence program consistent with ANILCA's requirements. The State of Alaska has implemented such a program since the enactment of ANILCA in 1980 pursuant to findings by the Department of the Interior that the State subsistence program is consistent with ANILCA. In December 1989, however, the Alaska Supreme Court ruled in *McDowell v. State of Alaska* that the rural limitation in the State subsistence definition, which is required by ANILCA, violates the Alaska Constitution. The Court stayed the effect of the decision until July 1, 1990.

As a result, the Department of the Interior may be required to take over the implementation of title VIII of ANILCA on public lands on July 1, 1990. The Service, as the lead agency is in the process of writing interim regulations for subsistence management on public lands. These rules would impact the subsistence use of fish and wildlife resources on public lands in Alaska managed by the Fish and Wildlife Service, National Park Service, Bureau of Land Management, Forest Service, Air Force, Army and various other Federal land managing agencies. This notice solicits comments and suggestions from resource users, other Alaskans and the general public on how title VIII should be implemented on public lands. Due to the uncertain nature of the situation and short time available, the development of these regulations is a contingency against the sudden requirement for the Federal government to take over implementation of title VIII on public lands. The mandates under which the regulations must operate include, but are not limited to the following:

- (1) Ensure the maintenance of healthy fish and wildlife populations;
- (2) Define subsistence uses as the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the

making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal family consumption; and for customary trade;

(3) Provide for nonwasteful subsistence uses of fish and wildlife and other renewable resources as the priority consumptive use of such resources on public lands, when it is necessary to restrict consumptive uses;

(4) Provide subsistence users reasonable access; and

(5) Provide for a system of regional participation.

The subsistence priority will not be based on race, color, or creed.

The potential need for quick action precludes a longer comment period than would normally be the case. Should Federal management become reality, it is the Federal government's intention to work in close cooperation with the State and minimize disruption to fish and wildlife users and historical state management of resident fish and wildlife. Title VIII allows reasonable regulations to provide access and to protect the viability of all wild renewable resources. The protection of wild renewable resources and the opportunity to utilize those resources by rural Alaskan residents on public lands for subsistence purposes are of paramount importance to the Federal government and to the public as a whole.

If Federal management appears to be required beyond December 31, 1990, the development of permanent regulations will commence in early July 1990. Permanent regulations will provide for regional councils and extensive public involvement in development of the permanent regulations and annual rule making. This regulation writing effort will include a Notice of Intent, public comment period and the acceptance of written and verbal comments throughout the process.

Dated: April 8, 1990.  
 John F. Turner,  
 Director, U.S. Fish and Wildlife Service.  
 [FR Doc. 90-8834 Filed 4-12-90; 8:45 am]  
 BILLING CODE 4310-35-M

RESOLUTION NO. 90-50-BOG

ALASKA BOARD OF GAME

RELATING TO REPORTING OF HUNTER USAGE OF AIR TAXI OPERATIONS

WHEREAS, it is of critical importance to the Board of Game in its role of protecting the wildlife resources of the State and allocating uses of these resources to the public, to know the location, numbers and timing of game harvest by hunters utilizing air taxi transportation; and

WHEREAS, the Board recognizes that air transportation is a very important means of access to game resources by many citizens of Alaska as well as non-residents, and

WHEREAS, the Board has received many reports from the public of excessive local harvest in certain areas by hunters transported by air taxi, and

WHEREAS, the lack of legal requirements for reporting of hunters transported by air taxi operators prevents the Board from having the information necessary to objectively determine whether a problem exists and whether corrective action is necessary,

NOW THEREFORE BE IT RESOLVED,

the Alaska Board of Game urges the Alaska State Legislature to pass legislation that would require all air taxi operators to report the number of hunters and big game animals transported; and

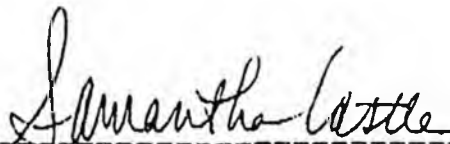
Post-It™ brand fax transmittal memo 7671 # of pages > 2

To	Senate Clerk	From	Leslie Pamplin
Co.	Senate	Co.	ADF+G
Dept.		Phone #	267-2179
Fax #	465-4455	Fax #	344-7914

RESOLUTION NO. 90-50-BQG  
Alaska Board of Game  
Page Two

BE IT FURTHER RESOLVED,

that copies of this Resolution be promptly transmitted to the Governor, the President of the Senate, the Speaker of the House, the Chairman of the Senate and House Resources, and Transportation, committees, and to the Commissioner of the Department of Fish and Game.



-----  
Samantha Castle, Chairman  
Alaska Board of Game

ADOPTED: April 2, 1990  
Anchorage, Alaska  
VOTE: 7 Favor 0 Oppose



# Alaska State Legislature

Please enter into the record my testimony to the (H) JUD.  
committee name

committee on CS FOR HB448, dated 4-10-90  
bill/subject

The section, 08.54.650 used to establish  
QUALIFICATIONS FOR A GUIDE AREA WILL PRESENT  
LEGAL PROBLEMS IN ITS PRESENT FORM. ANY  
REFERENCE TO HISTORY, EXPERIENCE, OR PRIOR  
USE SHOULD NOT BE RETAINED. SOME GUIDES  
WERE UNLAWFULLY DEPRIVED OF THE OPPORTUNITY  
TO ESTABLISH EQUAL EXPERIENCE UNDER THE  
OLD UNLAWFUL GUIDE SYSTEM.

DONT FORCE THE CITIZENS OF ALASKA TO  
RELY ON THE COURTS TO REFEREE WHEN SIMPLE  
DELETIONS CAN BE MADE AT THIS TIME.

Signed: VERN PORTER  
Testifier

Representing (Optional)  
P.O. Box 4478 Soldotna, 99669  
Address  
907-262-3224  
Phone No.



# BLM news release



Bureau of Land Management

U.S. Department of the Interior

for further information contact:

release number:

date:

William J. Robertson  
Bureau of Land Management  
1150 University Avenue  
Fairbanks, Alaska 99709

F-0-16

April 2, 1990

APR 5 1990

## RECREATION FEES RAISED

Minimum fees for special recreation permits on Bureau of Land Management land increased on March 1, possibly affecting 95 guides and outfitters statewide. These permits are issued for guiding and similar services on public lands. The permittee pays a minimum fee of \$60 (up from \$50) or 3 percent of the gross income they earn from public land, whichever is higher. The site reservation fee has increased from \$100 to \$120. The site reservation fee is required for site-specific uses such as base camps or helicopter landing spots.

The fee for a one-night stay in one of BLM's public-use cabins will increase from \$15 to \$20, but will not be effective until July 1, 1991. This is the same fee the U.S. Forest Service charges, and follows a recent increase in their rates. BLM administers eight public-use cabins furnished with beds, wood stoves and gas cook stoves and lanterns. Cabin fees are used to further the BLM cabin management program.

-end-

P. 13

Kantak

POSITION PAPER  
DEFINITION OF "TRANSPORTER"  
ALASKA AIR CARRIERS ASSOCIATION

HB 448 and SB 422 which deal primarily with the restructuring of the once exclusive guide areas, also contain a section which redefines "transporters." "Transporters" are a creature of the guide/outfitters legislation passed in 1989. The term was defined as air taxi operators which carry big game hunters "to the field," but provide no additional services to those hunters. The purpose for regulating "transporters" was a concern by some that a small number of air taxi operators were carrying large numbers of hunters into certain game units for unguided hunts. To try to target this small group of carriers, the legislation attempted to define "transporters" to include those carriers with hunting as a major part of their business and to exclude carriers which are primarily scheduled carriers or charter operators. This was accomplished by an exemption for air carriers which carry hunters only as an "incidental" part of this aviation business. If an air taxi does not qualify for the exemption, then it must apply for a transporter's license and be regulated by the new Big Game Commercial Services Board.

The definition of "incidental" is a significant issue for air carriers because to most major carriers, the transportation of hunters is truly incidental to their business (i.e., less than 10% of their customers) and, therefore, should be exempt under the law.

However, when the Big Game Commercial Services Board finally met in December and February to draft regulations, it put

# **CORRECTION**

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



# BLM news release



Bureau of Land Management

U.S. Department of the Interior

for further information contact:

release number:

date:

William J. Robertson  
Bureau of Land Management  
1150 University Avenue  
Fairbanks, Alaska 99709

F-0-16

April 2, 1990

APR 5 1990

## RECREATION FEES RAISED

Minimum fees for special recreation permits on Bureau of Land Management land increased on March 1, possibly affecting 95 guides and outfitters statewide. These permits are issued for guiding and similar services on public lands. The permittee pays a minimum fee of \$60 (up from \$50) or 3 percent of the gross income they earn from public land, whichever is higher. The site reservation fee has increased from \$100 to \$120. The site reservation fee is required for site-specific uses such as base camps or helicopter landing spots.

The fee for a one-night stay in one of BLM's public-use cabins will increase from \$15 to \$20, but will not be effective until July 1, 1991. This is the same fee the U.S. Forest Service charges, and follows a recent increase in their rates. BLM administers eight public-use cabins furnished with beds, wood stoves and gas cook stoves and lanterns. Cabin fees are used to further the BLM cabin management program.

-end-

United States  
Department of the Interior  
Bureau of Land Management  
1150 University Avenue  
Fairbanks, Alaska 99709-3844



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OF THE INTERIOR  
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State Senator  
Citizen's Advisory Commission  
Bettye Fahrenkamp  
Pouch V  
Juneau, AK 99811

P. 13

K. Koutch

POSITION PAPER  
DEFINITION OF "TRANSPORTER"  
ALASKA AIR CARRIERS ASSOCIATION

HB 448 and SB 422 which deal primarily with the restructuring of the once exclusive guide areas, also contain a section which redefines "transporters." "Transporter;" are a creature of the guide/outfitters legislation passed in 1989. The term was defined as air taxi operators which carry big game hunters "to the field," but provide no additional services to those hunters. The purpose for regulating "transporters" was a concern by some that a small number of air taxi operators were carrying large numbers of hunters into certain game units for unguided hunts. To try to target this small group of carriers, the legislation attempted to define "transporters" to include those carriers with hunting as a major part of their business and to exclude carriers which are primarily scheduled carriers or charter operators. This was accomplished by an exemption for air carriers which carry hunters only as an "incidental" part of this aviation business. If an air taxi does not qualify for the exemption, then it must apply for a transporter's license and be regulated by the new Big Game Commercial Services Board.

The definition of "incidental" is a significant issue for air carriers because to most major carriers, the transportation of hunters is truly incidental to their business (i.e., less than 10% of their customers) and, therefore, should be exempt under the law.

However, when the Big Game Commercial Services Board finally met in December and February to draft regulations, it put

out a proposed regulation that defines "incidental" as all air carriers which transport hunters "to the field."

The Alaska Air Carriers Association (AACCA) believes that if the Big Game Commercial Service Board adopts such a regulation, it will be completely inconsistent with the existing statute. It, therefore, urges the Legislature to redefine "transporters" in HB 448 or SB 422 in order to eliminate further controversy. AACCA suggests that air carriers be exempted from the requirement to be licensed as transporters unless they actively advertise for hunting business and they charge greater than point to point charter rates for hunters.

AACCA believes that this is a clearer definition and one that is more easily enforced than a standard based on a percentage of business. Further, it would be fair in that it includes air taxis which actively solicit hunting business and which profit from the big game resource in a somewhat similar manner to guide/out-fitters. It excludes carriers for which the transportation of hunters is truly "incidental" and which do not profit from the resource, as the carriers are simply providing transportation from point to point at the same rate they charge to any customer regardless of the intended purpose of the customer's travel.

AACCA also wishes to note that most of the hunters they carry are Alaskan residents. These hunters are not required to have guides under Alaska statutes and should be free to hunt wherever permitted by our game regulations.

AACA's other concern with HB 448 and SB 422 is the conservation fee which will be assessed for big game animals transported "from the field." We suggest that this fee, which will ultimately be paid by the hunter, would be more effectively collected at the time the hunter picks up big game tags.

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

P.O. BOX D-LIC  
JUNEAU, ALASKA 99811-0800  
PHONE: (907) 465-2534

### DIVISION OF OCCUPATIONAL LICENSING

#### SUPPLEMENT TO PROPOSED REGULATIONS OF THE BIG GAME COMMERCIAL SERVICES BOARD

##### DEFINITION OF "INCIDENTAL"

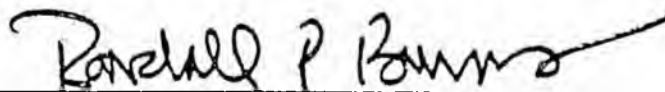
The Big Game Commercial Services Board recently public noticed 13 pages of proposed regulations (draft dated February 16, 1990) dealing with licensing requirements for guide-outfitters, transporters, and commercial use permit holders and the big game commercial services they provide. Inadvertently omitted from this draft was a definition of "incidental" as it applies to the transportation services provided by air taxi operators and commercial air carriers. In addition to the proposed regulations you may have already received, the Big Game Commercial Services Board will be considering the following proposed definition:

12 AAC 38.990. DEFINITIONS, is amended to read:

(4) "incidental" means transportation provided to a big game hunter by an air taxi operator or air carrier on a scheduled flight or on a flight between publicly maintained landing facilities, including airports and float plane docks; "incidental" does not mean transportation provided to, from, or in the field.

When defining incidental, the board may also consider the advertising done by air taxi operators and air carriers as well as the schedule of fares they charge.

You are invited to comment on this proposal along with all of the other proposed regulations either by writing to the address above or testifying at the public hearing tentatively scheduled for March 22, 1990 in conjunction with the meeting of the Big Game Commercial Services Board.



Randall P. Burns  
Director

DATE: February 23, 1990

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P.2/2

FAX 707-586-8228

GUIDELINES FOR DEVELOPMENT OF GUIDE-OUTFITTER AREA PERMITS

From the Office of the President,  
ALASKA PROFESSIONAL HUNTER'S ASSOCIATION

On behalf of the membership of the Alaska Professional Hunter's Association which represents more than 70% of all guiding activity in Alaska, as well as the industry as a whole. APHA endorses the following criteria reference any proposed state or federal guide-outfitter area system under consideration. These criteria take into consideration current political, economic and biological considerations which affect the guiding industry as a whole, as well as both the conditions and concerns set forth in the Supreme Court's Owsachiak decision of October, 1988, and the guide-outfitter legislation passed in 1989. APHA will not endorse any proposal that does not provide:

- (1) that any assigned guide-outfitter area assignment be biologically viable
  - (2) that any assigned guide-outfitter area assignment be economically viable to the operator assigned the area
  - (3) that any assigned guide-outfitter area assignment provide economic return to the State of Alaska
  - (4) that any assigned guide-outfitter area assignment be allotted in the best interests of the State of Alaska
  - (5) that no qualified licensee be discriminated against in the assignment of a guide-outfitter area permit based solely upon how many years he may or may not have held a guide-outfitter's license
  - (6) that provisions be included that will insure that an area is being utilized per terms of issuance, or else the area shall revert back to the authorizing authority for reassignment to another qualified guide-outfitter applicant
  - (7) that consideration be given for a guide-outfitter's past use, occupancy, and investment in the area encompassed by any proposed guide-outfitter area permit or permit system
  - (8) that a feasible renewal provision be included which is compatible with sound business principles and in the best interests of the guiding industry, the State and the resource
  - (9) that APHA would suggest a graduated Commercial Use Permit fee schedule be tied to the issuance of a guide-outfitter area permit that is all-inclusive of proposed wildlife conservation fees and/or "head taxes"
- 



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
1011 E. TUDOR RD.  
ANCHORAGE, ALASKA 99503

IN REPLY REFER TO:

RF0023.JEK

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MAR 1 1990

FEB 20 1990

JAN FAIKS  
SENATE OFFICE

Senator Jan Faiks  
Pouch V  
Juneau, Alaska 99811

Dear Senator Faiks:

The U.S. Fish and Wildlife Service (Service) has worked closely with the Legislative Task Force on guiding and game for the past several months. We are pleased with the final recommendations and hopeful the proposed new management system for guides and outfitters will prevent overcrowding in prime areas and reduce the potential for overharvest of wildlife species.

We believe the Task Force considered all options and alternatives in their deliberation. The procedures outlined in the proposed legislation appear to be a good solution to this complex issue.

The Service endorses the proposed legislation as written, and is prepared to adopt this guide/outfitter allocation system on the 77 million acres of national wildlife refuges in Alaska. As I am sure you can appreciate, we must do some contingency planning. In the unfortunate event the legislature is not successful in adopting an acceptable solution, the Service will be prepared to initiate a guide/outfitter allocation system on refuges to be implemented in 1991 to protect refuge resources and manage the public use of those resources.

We urge the state legislature to give serious consideration to the proposed legislation.

Sincerely,

Regional Director

cc: ✓Lou Pamplin  
✓Randall Burns

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(907) 886-8880  
TELECOPIER (907) 886-8814

MEMORANDUM

TO: Senator Bettye Fahrenkamp  
Chair, Senate Resources Committee

FROM: William P. Horn *WPH*

DATE: March 26, 1990

VIA TELECOPY

SUBJ: Comments on Proposed Amendments to SB 422

The following are my comments on proposed amendments to SB 422 -- the Hunting Guide bill. The letters correspond to the amendments as marked on the Attachment.

- (Au) A. This does not appear to create problems per the Owsichuk decision. It would specify that the provision aimed at guide area allocation and operation therein do not apply to regions not included in a designated area. However, the Task Force was interested in having a registration system to keep track of guides in unawarded designated areas. This amendment partially bypasses that system.
- (Aw) B. This merely makes more express the intent of § 08.54.670.
- (At) C. Technical amendment.
- (At) D. This amendment raises policy and implementation issues. Is it good policy to go through the 1990 season with no new system in place? Does this reflect a concern that enactment of SB 422 will come too late to be effectively implemented in time for this hunting season?
- (At) E. This applies the severability provision to the amendments passed a year ago regarding new guide licensing requirements and procedures.