

ALASKA LEGISLATURE COMMITTEES, 2005-2006 86/2

11564 HOUSE RESOURCES

Development.¹⁰ The legislature, in intent language accompanying the legislation creating the board, stated it wanted BGCSB to establish a resource-based management system for allocating big game hunting opportunities among guide-outfitters.

The BGCSB oversight regime was to:

1. Provide for the conservation of the game resources.
2. Provide for equal opportunity to all qualified guide-outfitters when access to hunting rights are assigned or reassigned.
3. Provide financial compensation to the state for the commercial harvest of Alaska's big game resources to be used for game management purposes.
4. Designate the Alaska Department of Fish and Game as the lead agency to formulate guide use areas within the department's game management units.
5. Provide for long-term stability and economic health of any commercial industry utilizing big game resources.
6. Include recommendations from private and public land owners in order to ensure statewide applicability.

The Department of Fish and Game, Department of Natural Resources, and Department of Public Safety were tasked with providing the board with information, data, or technical assistance for the purpose of licensing and regulating activities of guide-outfitters, assistant guides, and transporters

Under BGCSB guide-outfitters were certified to guide in any area for which they qualified

It was not until January 1992 that GUA maps were first developed. The first regulations establishing how guide-outfitters could apply and qualify to operate in a GUA were not fully in place until January 1993. In July 1993, the Division of Occupational Licensing began assigning areas, on a non-restricted basis, to licensed guide-outfitters. Under the BGCSB regulations guide-outfitters could obtain permits for up to three GUAs, as long as they met the qualification requirements to operate in that area. Between July and October of 1993, the division had assigned 720 GUAs to over 300 licensed guide-outfitters.

BGCSB was not extended beyond 1995, new guide oversight statutes were adopted in 1996

After being established in 1989, the BGCSB was scheduled to terminate on June 30, 1993. The 1993 legislature did not extend the termination date of the board. Accordingly, BGCSB

¹⁰ The Department of Commerce and Economic Development has since been renamed the Department of Community and Economic Development.

entered its "wrap-up" year and, as provided by statute, was set to cease operations June 30, 1994.¹¹ The 1994 legislature extended the termination to June 30, 1994 which extended the effective close-out to the end of FY 95.¹² Under HB 102, the 1995 legislature sought to extend the board to 1998, but the measure died in committee.

In 1996, the legislature developed new statutes for the oversight of guides (the term guide-outfitter was dropped) and transporters.¹³ The Division of Occupational Licensing (OccLic) continued to have the administrative responsibility for regulating guiding and transporting activities under the new oversight regimen. Many of the statutory and regulatory requirements previously vested with the BGCSB were eliminated, particularly some specific practices that had been previously listed as unethical.¹⁴

Specific responsibilities of BGCSB or board-implemented requirements that were eliminated include:

- coordination responsibilities with other state agencies such as the Department of Fish and Game, the Department of Natural Resources, and the Department of Public Safety.
- various detailed operating standards that were previously set out in regulations.
- requirements that guide-outfitters submit a detailed operational plan to OccLic for each area they were authorized to guide hunters.
- statutory requirements that a guide's license be revoked for violation of federal game laws.

¹¹ Under AS 08.03.020(a), upon termination, a board was allowed to "continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs "

¹² Chapter 95, SLA 94

¹³ Chapter 33, SLA 96

¹⁴ The BGCSB regulation addressing ethics reads as follows:

12 AAC 38.650 *GUIDE OUTFITTING ETHICS* Register 129, April 1994. "Unethical activity" includes 1) failing to assist the Department of Fish & Game, Public Safety, and Commerce & Economic Development in determining the truth of any statements; 2) not fully cooperating with state and federal wildlife officials, not abiding by and advising clients and personnel of all applicable conservation and game statutes and regulations, or condoning a violation of them; 3) misrepresenting or not clearly defining rates, accommodations, and services to prospective clients before booking and acceptance of a deposit, or otherwise misleading prospective clients through false or fictitious advertising; 4) failing to make financial restitution to a client for a breach of contract by the guide, outfitter or the guide-outfitters' employees, if the breach is not attributable to fault of the client.

Under current regulations, above items three and four are no longer listed as unethical activities. Accordingly, as discussed in the text under Recommendation No. 1, the Division of Occupational Licensing does not believe it has the regulatory authority to proceed against guides when receiving complaints from clients about contract breach or failure of a guide to deliver promised services.

Guides and transporters continued to be required to file activity reports with OccLic. These reports are required to be completed for each compensated hunt by guides and on an annual basis for transporters.

Regulation of guiding activity on federal land was left mostly to a variety of federal agencies

With the termination of a centralized guide board much of the regulation of guides and transporters fell on, or remained with, various federal agencies. The president of the Alaska Professional Hunters Association estimated that as much as 40% of all guiding activity takes place on lands managed by federal agencies. These lands are regulated by a variety of federal agencies, as follows:

1. Federal Wildlife Refuges – The U.S. Fish and Wildlife Service (USFWS) administers guiding activities on 16 federal wildlife refuges in the state.
2. National Parks – The National Park Service (NPS) administers guiding activities on the ten national parks located in the state.
3. National Forests – The U.S. Forest Service (USFS) administers guiding activities carried out on lands in the Chugach and Tongass National Forests.
4. Other Federal Lands – Guiding activities conducted on other federal lands in the state – not in national refuges, parks, and forests – are administered by the Bureau of Land Management (BLM).

Each federal agency brings a slightly different perspective to guide regulation. With the exception of BLM, the agencies begin with a primary focus on the client-hunter and the aesthetics of his or her experience. That is, the primary objective of NPS, USFWS, and USFS is to provide enjoyable and safe access to game in the national park, refuge, or forest.

USFS uses a carrying capacity analysis to determine the level of permitting activity in national forests. In determining how many guides are allowed to operate in the national parks and refuges, NPS and USFWS essentially adopted the state's old EGA concept. These two federal agencies: limit the number of guides that are allowed to operate; give each guide an exclusive area within the park or refuge; impose an extensive number of detailed operating requirements on the guides selected; and, if guides are found in violation of the agency's operating agreements, they may be subject to losing their right to guide altogether. See Exhibit 1, for an expanded discussion of how the various federal agencies regulate big game guide operations.

Federal Agencies Regulate Guides in a Slightly Different Ways

Four federal resource agencies regulate an estimated 40% of the guiding activity in the state through a variety of permits, leases, concessionaire agreements, and other contractual documents. Each federal agency requires guides to submit a detailed operating plan which outlines such things as the number of hunters they plan on guiding in specified season, how food will be stored, how waste products will be disposed of, etc. The agencies also require the guide to submit a safety plan outlining how they will respond to various health emergencies or possible hunting accidents that may take place in the field. All agencies require guides to provide proof of insurance for a minimum of \$300,000 in liability coverage. And, of course guides must show evidence of having a valid business license and the necessary state guide or transporter license. Specific requirements of each federal agency are as follows:

National Park Service (NPS) - The park service issues exclusive concession contracts to hunting guides and incidental business permits (IBP) to transporters. Concession contracts are awarded through a competitive process. NPS prepares a *prospectus* that outlines the requirements for operations. Interested individuals/entities apply by submitting written proposals that respond to the evaluation criteria of the *prospectus*. IBPs are generally issued in a noncompetitive manner and generally will be issued as long as the commercial activity is permitted under park regulations:

Concession contracts are issued for five-year periods and renewed by competitive selection. It may also be transferred or assigned with prior written approval of NPS. Outfitter and guides have received *preferential right* to renewal of contract. Concession contract franchise fee is based upon consideration of the probable value to the concessionaire of the value of the privilege granted by the contract.

United States Forest Service (USFS) - The Forest Service requires a Special Use Permit (SUP) for all guides and outfitters. Transporters providing only point to point service, such as air taxi operators are not required to have a special use permit. However, an air carrier advertising hunts is considered an outfitter and must have a SUP. Permits are issued by the respective ranger district office for a term of one year for two consecutive years. A five year permit may be issued only after a permittee receives two years of satisfactory evaluations by USFS. Competitive-use permits are issued only when there's a need to limit the number of guides/outfitters in an area. In addition, the USFS utilizes the carrying capacity to determine the number of permits that can be issued in each guide use areas.

U.S. Fish & Wildlife (USFWS) - The Fish and Wildlife service issues special use permits for the 16 national wildlife refuges (NWR) located in Alaska. USFWS has identified 99 guide use areas (GUA) within the refuges, and with one exception each GUA is assigned exclusively to a single guide. An individual or entity may apply for as many as 10 GUAs but can only be awarded a limit of areas. This model was similar to that used by the old Guide Licensing and Control Board.

Permits are issued on a competitive basis. The applicant's proposal is reviewed by a panel which ranks the proposal based on seven criteria with established ranking factors. Permits are issued for five years and are renewable for an additional five years if all terms and conditions have been complied with and a record of satisfactory performance met during the initial term of the permit.

Bureau of Land Management (BLM) - The bureau issues a special recreation permit (SRP) to individuals wanting to carry out guiding activities on federal lands outside of national parks, wildlife refuges, and forests. Such permits are generally issued on a first come first serve basis for a term of five years. The permit is validated annually. Validation is dependent upon payment of annual fees, submission of bonds (if required), policies, licenses, and receiving a satisfactory rating or probationary annual performance rating. Permits may be issued on a competitive basis when an area's desired use level has been reached. There are currently no BLM lands in Alaska requiring competitive bidding for an SRP.

Carrying out game management through guide oversight typically means limiting access

In a 1990 report to the 16th Legislature, the legislative task force stated the foremost purpose of any regulatory oversight system for guides was the "*conservation and management of big game resources.*" The report also stated in its preface that the directive to the task force had been to "*forge a new resource-based management system for allocating big game hunting opportunities among guide-outfitters.*"

This task force statement, regarding the allocation of opportunities among guides, reflects the central game management strategy involved with the regulation of the profession. Advocates for establishing more oversight of guides, in order to address game management concerns, invariably turn to the necessity of restricting commercial opportunities involved with guiding and transporting services. The 1990 task force stated it was important that a new guide oversight system "*ensure a viable industry, clearly basing any free market restrictions on wildlife management concerns*". [emphasis added]

Imposing free market restrictions in the interest of game management was ostensibly the central rationale: (1) for the establishment of EGAs under GLCB prior to the Owshek decision; (2) for the establishment of GUAs; and, (3) behind the 1998 Board of Game (BOG) resolution. See Exhibit 2, asking the legislature to reestablish a board for "*review of the number of current operations.*"

Limiting access is also seen as a way to develop a healthy, "world-class" industry¹⁵

Restricting the number of guides that can operate in a given region is also seen as a way to enhance and improve the guiding industry in Alaska. The guiding oversight structure of British Columbia, Canada, has been cited by knowledgeable guides as an example of a regulatory approach that has resulted in the development of a healthy, "world-class" big game guiding industry.

A prominent feature of the British Columbia system is use of exclusive guide areas. There are 245 guide-outfitters licensed to guide resident and nonresident hunters in an exclusive guide area with clearly defined and legally described boundaries within the province.¹⁶

Federal land managers, when taking over more responsibility for allocating regions to guides, in large part stayed with the precepts of the state's old EGA structure; because by doing so, this would not only limit the impact on game resources but also would, in their view, promote a better wilderness experience. A big concern of these managers is their agency's

¹⁵ We estimate that the guiding industry in Alaska takes in over \$40 million annually. This estimate is based on the average amount paid for a guided hunt reported by our survey respondents which is multiplied by approximately 5,000 activity reports received by the Division of Occupational Licensing each year. (See page 27, Appendix A)

¹⁶ The information came from http://wlapwww.gov.bc.ca/fw/home/becoming_guide_outfitter.htm (September 23, 2003), a British Columbia government website. The website goes on to state that guide areas vary considerably in size and availability of big game species. Guide outfitters in the province hire about 1,100 assistant guides each year and guide approximately 4,500 hunters annually.

Board of Game Has Repeatedly Sought Establishment of Oversight Board for Guides and Transporters

A March 18, 2003 letter from Board of Game Vice-Chair Sommerville to House Speaker Kott and Senate President Therriault stated in part

[The board of game is] responsible for identifying and establishing intensive management programs, predator control programs and plowing through convoluted subsistence processes and procedures to establish coherent wildlife management policies and programs. One of the biggest stumbling blocks has been the inability of the state to establish some reasonable controls on the guiding and transporter industries. [emphasis added]

Unregulated guiding operations and uncontrolled access by transporters to remote areas of our state have created significant and unnecessary conflicts. Congestion, wanton waste, complaints from clients, safety concerns and major conflicts with local hunters has created a climate of hostility in some areas. In addition, the present situation does little to improve the image of Alaskan fish and wildlife management programs and the users dependent on them.

The most logical solution is to recreate a Board that has the function of overseeing the big game guiding and transporter industries. Standards for licensing of guides, safety standards, testing where appropriate monitoring and investigating client complaints, enforcing reporting requirements, and the establishment and enforcement of ethics standards are some of the responsibilities that could be delegated to a [guide] board.

Earlier, in May 2002, Board of Game Chair Grussendorf submitted board resolution 98-127 which asked chairpersons of the Senate and House Resources Committees to reinstate a guide board, and even suggested that it would be most appropriate to place the board under the "auspices of the Alaska Department of Fish and Game." The cited resolution stated in part...

...the board has received requests and concerns from guides and the public regarding commercial guiding, outfitting, and transporting activities and the impact that these activities have on game resources of Alaska and hunt conditions.

... the Board of Game requests that the legislature reinstate the Big Game Commercial Services Board or incorporate that responsibility to an existing board or agency, and

...that the legislature delegate authority over guides, outfitters, and transporters to a Big Game Commercial Services Board and that a review of the number of current operations to be considered to be a priority for that board. [emphasis added]

inability to limit transporter¹⁷ activity in the parks and refuges. This activity is seen as being beyond the control of the managers. They see its growth as threatening the aesthetic appreciation of the wilderness experience, because too many other hunters and users are being brought out to their lands at the same time. These managers would welcome a more vigorous state regulatory regimen over such activity, as a way to restrict transporter operations in their areas.

Representatives of the Alaska Professional Hunters Association (APHA) believe that reestablishment of restricted guide areas, if not EGAs, is critical to improving the guiding industry in Alaska. From their perspective, such action will give guides more of a stake in not only the number of game animals in their territory, but also in the size of the animals.

In APHA's view, the relaxed licensing and area assignment regimen that has been put in place since the sunset of BGCSR has been counterproductive to developing a healthy, viable guiding industry in Alaska. They recognize the constitutional defects in the old system, but believe an area assignment process could be established that satisfies the requirements set out by Justice Rabinowitz, in *Owsichuk*, and presumably pass constitutional review.

¹⁷ According to our survey approximately 66% of the clients of transporters are Alaskan residents.

REPORT CONCLUSIONS

The primary objective of our review was to evaluate what impact, if any, has the absence of a professional licensing board for guides had in the enforcement of guiding and game statutes and regulations. As part of this objective, we were directed to evaluate the sufficiency of investigative and legal support related to the regulation of guiding and if penalties and enforcement mechanisms, currently available, are appropriate.

A secondary objective of our review was to evaluate the purpose and need for transporter activity reports – specifically, if the reports are sufficiently comprehensive and timely to accomplish reporting objectives.

As discussed in the Background Information section, with the termination of Big Game Commercial Services Board (BGCSB), oversight of licensed guides, assistant guides, and transporters has been left, for the most part, to the various governmental land-owner agencies at the state and federal level: (1) the National Park Service (NPS), (2) the U.S. Fish and Wildlife Service (USFWS), (3) the U.S. Forest Service (USFS), (4) the Bureau of Land Management (BLM), and, at the state level, (5) the Department of Natural Resources' Division of Mining, Land and Water.

In this decentralized, uncoordinated regulatory climate, we were repeatedly told by various agencies that they would welcome a more vigorous, centralized licensing and regulatory board in order to better carry out oversight over transporters, and to a lesser extent, licensed guides.

Guiding activities that take place in national parks, wildlife refuges, and forests were, with the exception of transporter activity, still highly regulated. Staff of NPS, USFWS, and USFS – utilizing many of the operating restrictions and requirements that were part of BGCSB regulations – has put in place systems emphasizing hunter safety and maximization of the "wilderness experience." To a large extent, these agencies also provide an avenue for handling client complaints.

Most guiding activity takes place on state land. This activity is regulated primarily under the guiding statutes and regulations initiated after the sunset of BGCSB. As discussed on the following page, because of this, guiding is being done with less emphasis on consumer protection or hunter-client safety.

Annual activity reports from transporters are sufficient for occupational licensing purposes for which they are being used. Although the reporting requirements for guides is relatively more stringent, we do not see a clear reason why guide activity information needs to be collected as often as is currently required.

Further discussion and analysis related to our conclusions is as follows:

Overall, the oversight of guides and transporters has lessened without a licensing board

New statutes and regulations put in place with the termination of BGCSB are not as rigorous as those that existed when the board was in place. Because of the way in which statutes and regulations are currently structured, the Division of Occupational Licensing (OccLic) has difficulty imposing any disciplinary actions against guides or transporters who may be operating in an unsafe or unethical manner.

We reviewed all complaints received by OccLic involving guides and transporters between 1997 and through 2003. A total of 50 complaints were received from clients about guides. For the 34 cases closed at the time at fieldwork, 12 had been closed because OccLic had no authority in statute or regulation to proceed against the guide involved.¹⁸ Most, if not all, of these cases could likely have been more vigorously investigated under the prior BGCSB regulations and statutes. Primarily, the less stringent guide ethics requirements currently in place, undercut the division's authority and ability to actively investigate hunter-client complaints about guide activities.¹⁹

Under current statutes and regulations, put in place after the sunset of BGCSB, hunter safety is less of a priority. Present statutes require only the assistant guide to have a first aid card issued by the Red Cross or a similar organization at initial licensure. Previously, all licensees were required to obtain such certification. Cardiopulmonary Resuscitation (CPR) certification is also not required for licensure of all guides. There is no requirement upon license renewal that any licensee possess current certification on first aid and CPR. In other jurisdictions that license guides, such requirements are a standard.

As discussed in the Background Information section, consumer protection and safety were more of a priority under the former BGCSB. Unethical activity²⁰ was clearly defined in statutes, and guide ethic standards were established in regulations. For example, under BGCSB, guides were required by law to have a signed written contract with clients prior to

¹⁸ At the time of fieldwork, in addition to the 34 cases closed after investigative activity, another six were administratively closed because they had been open for longer than a year and did not represent an imminent danger to public health.

¹⁹ OccLic initiated licensing sanctions in ten of these cases because the guide involved had been adjudicated by the courts or departmental hearing officer as being in violation of a state guiding, game law(s), or regulation(s).

²⁰ 1995 Alaska Statute 08.54.590 (14) defined *Unethical Activity* as specifically including:

(1) a deception or misrepresentation involving prospective or actual clients either before, during, or following the provision of big game commercial services, including misrepresentations through private or public advertising of the type, duration, cost, or conditions of the services (2) making a guaranty that species or certain number of species will be taken on a hunt (3) engaging in unsafe or unsportsmanlike activities ... including violations of state hunting or big game commercial services statutes or regulations or (4) accepting a deposit for big game commercial services [without a signed written contract].

accepting a deposit from them (see footnote 20). Now, written contracts are often not used – 21% of the clients we surveyed reported they did not have a written contract with their guide.

Transporter activity reports are appropriately sufficient and timely for the purposes involved

Under current regulation, licensed guides and transporters are required to file what are termed activity reports with OccLic. These reports set out information about what guiding and transporter activity is taking place, what assistants are being used, how much game is being taken, and other information about guide and transporter-accompanied hunters. While guides are required to complete their activity reports within 30 days of the end of their hunt, transporters are only required to file an activity report annually.

The primary use of these reports is for OccLic internal review and investigative purposes. When guides send in activity reports in advance of their hunts, OccLic does check the intended GUA, specified in the report, against the regions qualified for the guide involved. According to OccLic staff we interviewed, the Department of Fish and Game makes no use of the game information set out in the reports. Transporters are not limited to specific GUAs and the information on their reports is typically not critical to any internal review process by OccLic. Accordingly, the annual reporting required of transporters is adequate, given the needs of OccLic for the information.

Using an occupational guide board to manage game is problematic

Since establishment of the original guide board in the early 1970s, game management has been part of the public policy rationale for regulating guides and transporters. This may be attributable to finding the statute that officially recognizes and requires guiding services be used by certain types of hunters in the wildlife management section of state law. The requirement that nonresident hunters be accompanied by guides is set out in Title 16 and actually predates the legislation establishing the statute that set up the first guide board.

All state and federal resource agency managers we interviewed believe that an active oversight board, with the authority to restrict guiding and transporting activities through the licensing process, would be a valuable tool in managing game resources. Specifically, most commented that more control was needed over the activities of licensed transporters. Both federal and state resource managers saw possibilities that an active board, with broad authority to limit where transporters operated, could be valuable in reducing pressure on game resources²¹.

The Board of Game (BOG) has repeatedly taken the position that a guide board would help them in their job of managing the state's game resources. Since 1998, on three separate occasions, BOG has either adopted a formal resolution or written a letter to legislative leaders asking that a guide board be reestablished. On each of these occasions, BOG stated

²¹ Using the addresses of clients obtained for our survey, Alaska residents are a majority of the transporter's clients, while non-Alaskans are a majority of a guide's clients.

such a board was needed to alleviate and better manage the impacts that guides and transporters were having on state game resources. This emphasis on a guide board's prospective impact of game management is particularly reflected in the text of former BOG Chairman Grussendorf's letter which suggested that any such reconstituted board be placed under the auspices of the Department of Fish and Game.

When implementing a drawing permit hunt for brown bears in the Haines area (Game Management Unit 1D), the BOG findings stated that *"a lack of [a guide services board] and the inability to limit the scope of operation pertaining to individual big game commercial service providers has detrimentally affected guide hunter allocation."* Accordingly, the 2002 board limited nonresidents to 20 bear permits, to be distributed on the basis of a drawing.

Utilizing an occupational licensing board, to achieve game management objectives, may limit employment access to the profession. One of the primary responsibilities of any occupational board is to enhance public health and safety by setting and maintaining minimum competency requirements for the profession. In Alaska's sunset process, one of the criteria used to evaluate a board is *"the extent to which the board, commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public"*²².

Imposing dual responsibilities on an occupational board to issue licenses to all individuals that meet the minimum competency requirements for licensure, while at the same time restricting employment opportunities to meet game management objectives, would be difficult. While it is likely a EGA-like system could be developed that would pass constitutional review, it is just as likely that many of the individuals currently licensed as guides, or many assistants who aspire to be licensed guides, will be prevented from operating because of a return to restricted operational access to state-owned lands.

Essentially, land-management agencies at both the state and federal levels, are acting in a game management role through the restrictions they place on permits and the number of permits they issue in a given area. A reestablished guide board, with statutes and regulations updated to include business best practices, would improve the tools available to land managers regarding the quality of the licensed guides to whom they issue permits. But, we believe the current separation of game management objectives (currently done by the land managers) from an occupational licensing function is prudent.

²² Alaska Statute 44.66.050(c)(7)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider enhancing the public protection and consumer safety aspects of current guide services statutes. Additionally, the legislature should consider reestablishing a guide/transporter services licensing board.

After BGCSB ceased to operate at the end FY 95, new statutes and associated regulations were put in place by the legislature and DCED, respectively. The statutes and regulations set the parameters for guiding practices in Alaska. With the new statutes and regulations, key requirements and standards which had previously existed under the auspices of the board were no longer in place. Many of the omitted requirements were key to enhancing consumer protection and safety. Additionally, some of the missing requirements promoted more compliance among guides and transporters with land and game management requirements.

Key requirements, currently no longer in place with the sunset of BGCSB, are as follows:

1. There are no "business ethics" standards established for how guides must conduct their operations. Previously, BGCSB adopted guide-outfitting ethics included what could be termed "best practice" provisions. These unethical activities included the following practices:
 - misrepresenting or not clearly defining rates, accommodations, and services to prospective clients before booking and acceptance of a deposit
 - misleading prospective clients through false or fictitious advertising
 - failing to make financial restitution to a client for a breach of contract by the guide-outfitter or the guide-outfitter employees, if the breach is not attributable to the fault of the client
 - contracting for more hunts or for more hunters at any one time than the guide-outfitter or the guide-outfitter employees can adequately serve
 - not maintaining and providing livestock, mechanical equipment, hunting and camping gear, food supplies, and cooking facilities of a quality and condition necessary to provide services equal to or better than those described in the guide-outfitter's advertising, correspondence, verbal declaration, or contractual agreements.

Currently, no such "best practices" regulation is in place. As a result, OccLic investigators have no basis to proceed on many of the various complaints received by the

division. Previously, OccLic investigators could conduct a formal investigation of many of the practices which might serve as a basis for some licensing action against the guide or transporter involved. Now, typically OccLic must advise people with these type of complaints to consult their contract and take costly legal action against the individual involved.

An example of the above "best practice" situation in our guide survey is that of a client who had contracted for and prepaid for a hunt scheduled after the September 11, 2001 terrorist attack. He canceled his trip but was denied a refund or a rescheduled hunt. The client filed a complaint with OccLic, and the division was forced to advise the complainant that there was no administrative basis for possible sanction under current statutes and regulations.

2. Requirements for GUA registration have been significantly reduced. Qualifying to register for GUAs has become much easier under the new regulations. Guides are no longer required to:

- Provide proof of access to land. Previously, guides were required to provide evidence that they had appropriate authority to operate in their assigned GUA. For federal lands the guide had to file, with OccLic, documentation showing they had authority from the federal agency involved. For individuals operating on state lands, the guides had to show they had the necessary permits from DNR.

It is unlawful, under current statute, to knowingly enter or remain without a prior authorization while providing big game hunting services on private land only. There are a number of guides currently delinquent in payment of their DNR land use permits and using state land without appropriate permits which are, accordingly, in trespass status. Although state law requires payment-in-full of all license fees before a license is renewed,²³ it does not require guides to be current on fees owed for special or land use permits issued by DNR. There is currently no statutory licensing requirement tying the guide's outstanding state land use permit fee with their license issuance or renewal.

- Submit an operational plan for the GUA. Previously, guides were required to file an operational plan with OccLic outlining how they intended to operate within their assigned region(s). Submission of operational plans for GUAs is no longer required.

Plans were required to include such information as: (1) the location and type of base camps to be used; (2) the estimated number of clients to be guide-outfitted; (3) big game species to be hunted and the estimated number of animals to be taken; and, (4) methods used to transport people, equipment, and supplies. Additionally, previous regulations had sanctions in place, and would give OccLic a basis for investigative

²³ AS 08.54.660 (b)4

action, in the event a guide deviated from an operations plan without notifying the department.²⁴

Under current statutes and regulations, a guide only needs to notify OccLic within 30 days before conducting big game hunting services in his authorized GUA. Annually, he is required to submit his registered guide number, guide areas registering for, and the location of his camp. Guides operating on federal lands are, comparatively, very regulated. Many of the requirements that were dropped by the state after the board's termination can be found in various federal permits and/or concessions. Currently, guides who hunt on federal land are required to submit operational plans with very similar content.²⁵

- Hold valid first aid and cardiopulmonary resuscitation (CPR) certification. Previously, guides were required to obtain and maintain appropriate certification in first aid and CPR training. They were required to show documentation of such certification to OccLic to keep their license in good standing. As with the operational plan requirements, this is a standard requirement for guides seeking operating permits from federal resource agencies – but is not necessary for conducting hunts on state-owned lands. Currently, only the assistant guide is required by statute to have a first aid card issued by the Red Cross or a similar organization. The CPR requirement was eliminated for all classes of guides.
3. License sanctions for multiple consumer complaints or federal violations are no longer in place. Under the prior BGCSB statutes, following a hearing, the board could discipline guides after receiving written complaints from clients from three separate hunting parties over a two-year period. Also, a guide or transporter previously faced possible sanctions from BGCSB if they violated federal game laws or guide services regulations. Current state law and regulation have no such provisions. OccLic cannot sanction a guide or transporter who has violated a federal game law unless the court orders license suspension or revocation as part of its sentencing.
 4. Civil fines for violations of guide statutes reduced dramatically²⁶. Currently, a guide or transporter violating professional statutory provisions can be fined up to a maximum of \$1,000. Under BGCSB regimen the maximum fine was set at \$30,000.

²⁴ 12 AAC 38.880, GROUNDS FOR REVOCATION OR SUSPENSION OF A USE AREA REGISTRATION, Register 129, April 1994

(a) The board will, in its discretion, revoke or suspend a use area registration for the following reasons: ...
(2) a deviation from an operations plan without notifying the department under 12 AAC 38.830(b).

²⁵ The mandatory operating plan must include, as an example, the following: 1) the uses allowed, the total amount of use authorized, in terms of service days, hunts, or other appropriate unit of measure...; 3) description of authorized area of use; 4) liability insurance ...; 8) operating and safety plans ...; 11) compliance with federal, state, and local laws and ordinances.

²⁶ To provide a perspective on the \$1,000 fine, the average cost of a guided hunt based on our survey results is over \$7,500.

5. Qualification examination is required only for registered guides. Qualification requirements under BGCSB oversight were more stringent. Under BGCSB regulations, both assistant and registered guides were required to pass an examination that included an oral examination for the guide-outfitter category. Currently, only the registered guide is required to take a qualification and GUA examination. Class-A assistant guides, and assistant guides, do not have to pass a qualification examination; all that is required is for them to pay the necessary licensing fee and certify they have had some hunting experience in the state.
6. Scope of services for guides and transporters. The BGCSB established license requirements for guides and those individuals who provided transportation services to hunters. While the current licensing structure maintains both guide and transporter licenses, there is a lack of clear distinction between the services that can be provided by a guide versus a transporter. Both the Department of Public Safety, Fish and Wildlife officers and OccLic investigators report difficulties in investigating potential violations of transporters providing guide services because they view the current statutes as vague and complicated.

Revisions to current state law and regulation could put back in place important consumer protection and hunter safety elements that previously existed but are currently absent. While a guiding industry oversight board is not necessary to address the concerns set out above, a licensing-oriented board will likely provide a more dynamic regulatory regimen – allowing the revision of regulations on a regular basis to enhance professionalism by guides, consumer protection, and hunter safety. Accordingly, we further recommend that the legislature consider amending the current guide and transporter statute to reestablish a guide service licensing board

APPENDICES

As part of our audit, we surveyed guide and transporter clients regarding their concerns on issues such as consumer protection, safety, and fair trade practices related to big game hunting and transportation services. We also asked about their overall hunt experience and the related costs.

Identifying the clients to survey was a two-step process. First, guides²⁷ and transporters were randomly selected from the Division of Occupational Licensing database. Then client names were selected from either the hunt reports submitted by guides or from activity reports submitted by transporters. There were 332 guide client surveys and 165 transporter client surveys distributed.

Appendix A reports the results of the guide surveys. A total of 158 (48%) guide-clients responded to the 332 surveys distributed.

Appendix B reports the results of the transporter surveys. A total of 50 (31%) transporter-clients responded to the 165 surveys distributed.

In both appendices, the number of responses will not reflect the total number of surveys received since some questions may have multiple responses.

²⁷ Guide under this context means both registered and master guides who are the only ones with authority to contract for guided hunts.

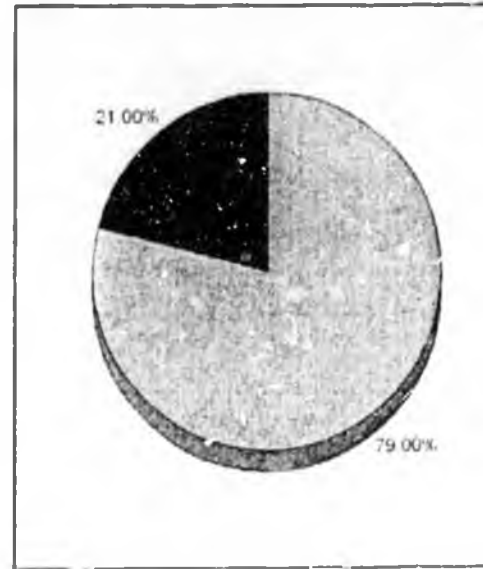
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Appendix A

Department of Community and Economic Development
Guide Clients – Survey Results

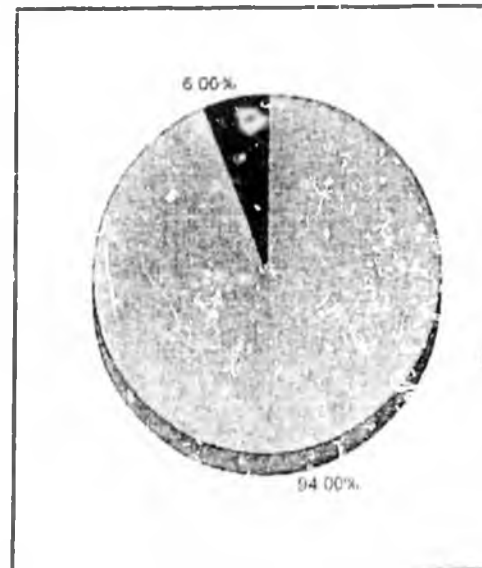
Question No. 1 – Did you have a written contract with the guide?

Responses	Number	Percent
☐ Yes	123	79.00%
■ No	32	21.00%



Question No. 2 – Were you satisfied that you received all of the hunt and camp services set out in the contract?

Responses	Number	Percent
☐ Yes	116	94.00%
■ No	7	6.00%



Appendix A

Department of Community and Economic Development Guide Clients - Survey Results

Question No. 3 - If you did not receive all the services that were contracted for, please list or summarize deficiencies. Some of the comments on deficiencies are listed below:

- *No place or way to dry clothes. Lack of communication between camps. Guide didn't want to get game animals out and had to flag airplane to get guide to get animals out.*
- *The combination brown bear and caribou hunt in 1998 was contracted with master guide. Master guide dropped client off with another guide. Expected client to carry his gear and guide supplies equipment a couple of miles to make camp. Guide was supposed to fly back every day and bring supplies. Never showed up for 5 days. Showed up on 6th day and client told guide to bring him back to Anchorage.*
- *They advertised home cooked meals, shower, sauna, their own string of mountain horses. But I was stuck with two boys that never cooked a meal they boiled some water, most of the time I fixed peanut butter and jelly sandwiches. If you will take the time to watch the video I am sending you and read my letter and daily notes you will understand why I am upset.*
- *Outfitter had me with a guide who did not know the river or how to handle large raft. He was also arrogant and put my life in jeopardy on more than two occasions. Consequently we lost 5 days of hunt or 1/2 of what I have contracted for. I have written and discussed with Alaska Fish and Game¹ and they tell me there is nothing they can do. This outfitter is well known and I believe he is being protected.*
- *Lack of equipment, guides' owner was physically unable to perform his duties.*

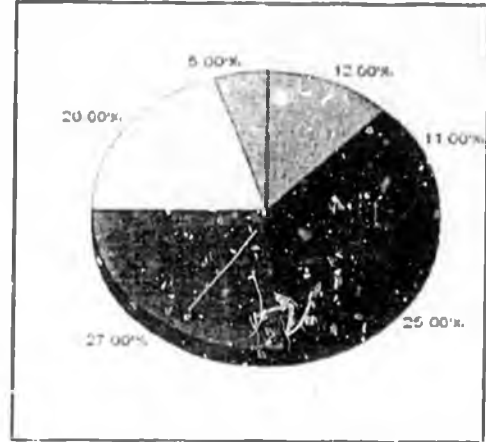
¹ DOL Investigator called client in February 2003 and indicated that he would interview the guide in March but did n't think he could do anything.

Appendix A

Department of Community and Economic Development
Guide Clients -- Survey Results

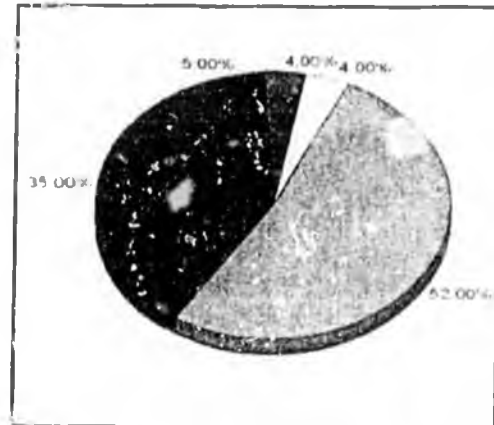
Question No. 4 – How much did you pay your guide for your hunt?

Dollar Range	Number	Percent
0 - 2,999	18	12.00%
3,000 - 4,999	17	11.00%
5,000 - 7,999	38	25.00%
8,000 - 9,999	41	27.00%
10,000 - 14,999	31	20.00%
15,000 and over	7	5.00%



Question No. 5 – How much do you estimate that you spent in Alaska related to your hunt (excluding airfare to/from the state and guided hunt cost)?

Dollar Range	Number	Percent
0 - 1,999	80	52.00%
2,000 - 4,999	55	35.00%
5,000 - 7,499	8	5.00%
7,500 - 9,999	6	4.00%
10,000 and over	6	4.00%



Question No. 6 – What was the ownership status of the land you hunted on?

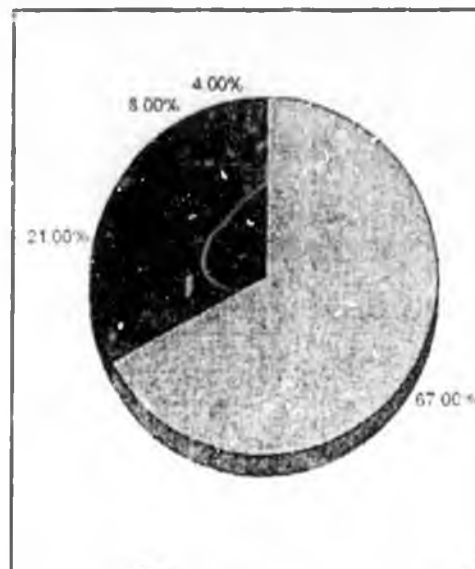
Responses	Number	Percent
Do not know	73	42.04%
Other State Owned	25	14.71%
Alaska Native Owned	18	10.59%
Nat'l Wildlife Refuge	15	8.82%
Nat'l Park Service	10	5.88%
Other Federal Land	10	5.88%
U.S. Forest Service	7	4.12%
Other	7	4.12%
State Park Service	5	2.94%
Private	0	0.00%

Appendix A

Department of Community and Economic Development Guide Clients – Survey Results

Question No. 7 – How would you rate your overall hunt experience?

Satisfaction	Number	Percent
Very Satisfied	105	67.00%
Somewhat Satisfied	33	21.00%
Not Very Satisfied	12	8.00%
Not At All Satisfied	6	4.00%



Question No. 8 – Please indicate the factors that resulted in a less than satisfactory hunt experience.

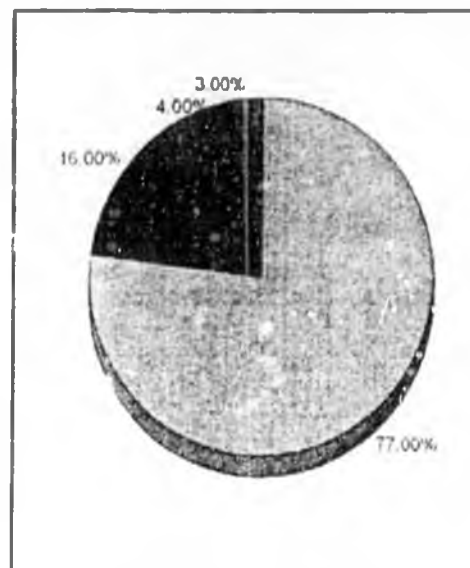
Responses	Number	Percent
Unsuccessful Hunt	12	22.0%
Lack of game animals in the area	11	20.0%
Bad weather	6	11.0%
Other	6	11.0%
Incompetent guides and/or assistant guides	5	9.0%
Poor camp conditions (inadequate shelter, poor or limited food)	4	7.0%
Inadequate or poor equipment	4	7.0%
Put in an unsafe situation	3	5.5%
Presence of too many other hunting parties	3	5.5%
Lack of proper physical conditioning necessary for the hunt	1	2.0%

Appendix A

Department of Community and Economic Development Guide Clients – Survey Results

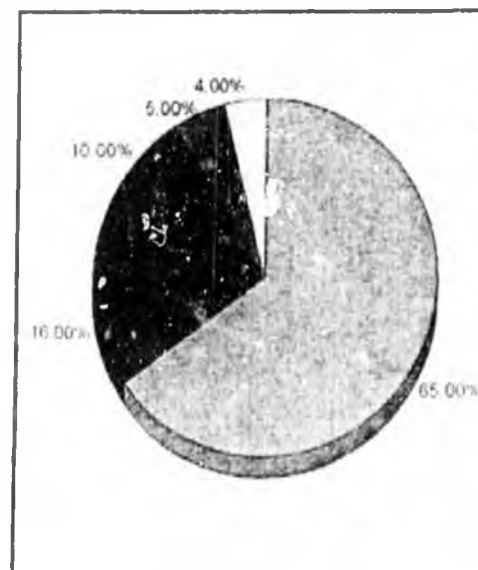
Question No. 9 – Based on your experience with this guided hunt, how likely would you return in the future to hunt big game in Alaska with a guide?

Return to Alaska	Number	Percent
Very Likely	119	77.00%
Somewhat Likely	25	16.00%
Not Likely	6	4.00%
Very Unlikely	4	3.00%



Question No. 10 – How would you rate the overall competency of your guide and/or assistant guide?

Guide Competency	Number	Percent
Excellent	99	65.00%
Very Good	25	16.00%
Good	15	10.00%
Fair	8	5.00%
Poor	6	4.00%



Appendix A

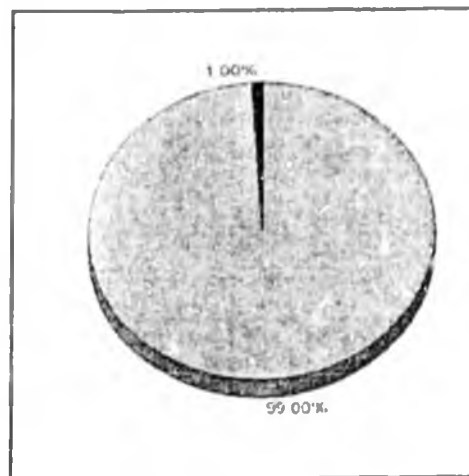
Department of Community and Economic Development
Guide Clients – Survey Results

Question No. 11 – How much contact did you have with the registered guide?

Responses	Number	Percent
In the field for all or most of the time	115	76.16%
In the field less than half the time	17	11.26%
In the field at least once during the hunt	5	3.32%
Brief contact in person at the beginning/end of hunt	11	7.28%
Brief contact by phone at the beginning/end of hunt	1	.66%
No contact	2	1.32%

Question No. 12 – Were you aware that guides are licensed by the State of Alaska?

Responses	Number	Percent
Yes	152	99.00%
No	1	1.00%

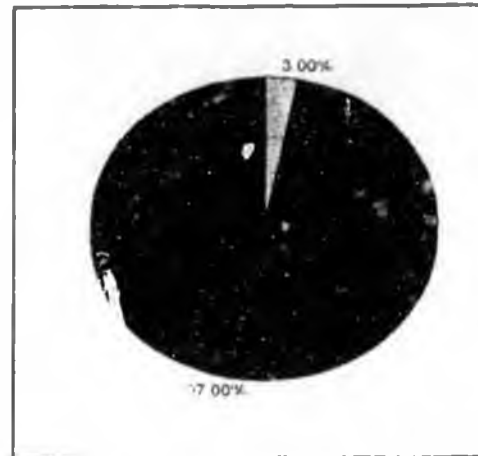


Appendix A

Department of Community and Economic Development
Guide Clients – Survey Results

Question No. 13 – Did you file a complaint with the State of Alaska, Division of Occupational Licensing, regarding some aspect of your guided hunt?

Responses	Number	Percent
■ Yes	4	3.00%
■ No	148	97.00%



None of the clients who filed a complaint were satisfied with how the complaint was handled. Dissatisfaction was due to the client's perception of Occupational Licensing's inaction and/or lax licensing standards.

We asked the guide clients to provide any other comments that they would like to share about their guided hunt experience in Alaska. Fifty-one clients provided additional comments, most of which were positive about the hunt experience, the guide's competence and Alaska's scenery. Some commented that, "it was the hunt of a lifetime." Those that made negative comments were typically related to unsuccessful hunts and related to either the lack of game animals or the high-price of the hunts.

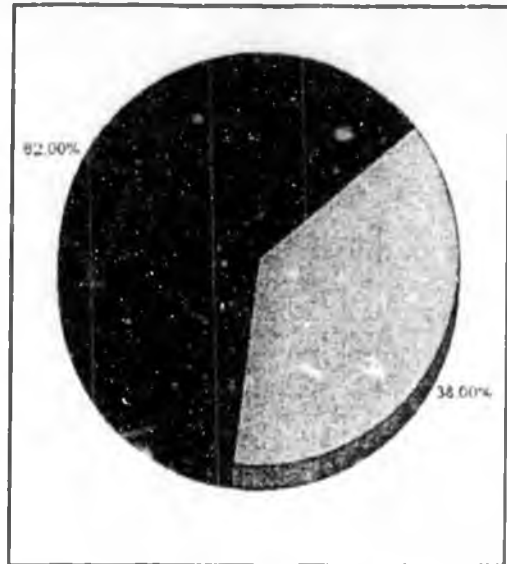
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Appendix B

Department of Community and Economic Development
Transporter Client – Survey Results

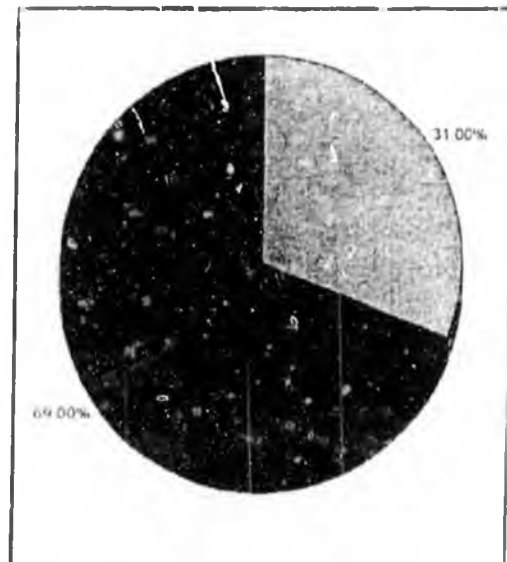
Question No. 1 – Did you have a written contract with the transporter?

	Responses	Number	Percent
■	Yes	19	38.00%
■	No	31	62.00%



Question No. 2 – Transporters can also provide accommodations in the field to big game hunters. Such accommodations can involve things as a permanent lodge, house, or cabin owned by the transporter. Additionally, accommodations can be provided on a boat with permanent living quarters as long as the boat is navigating salt water. Were such accommodations part of the transportation services you received?

	Responses	Number	Percent
■	Yes	15	31.00%
■	No	34	69.00%

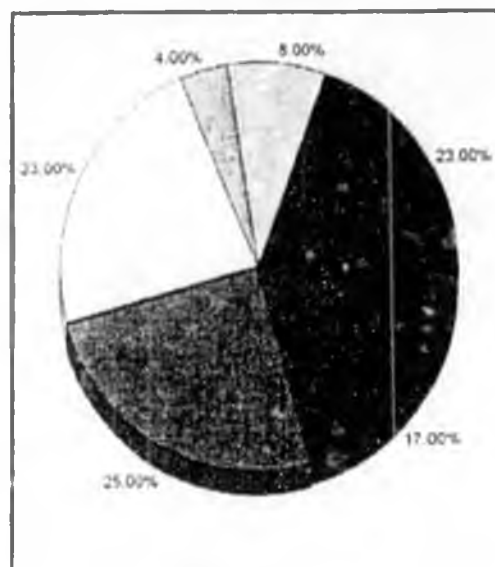


Appendix B

Department of Community and Economic Development Transporter Client – Survey Results

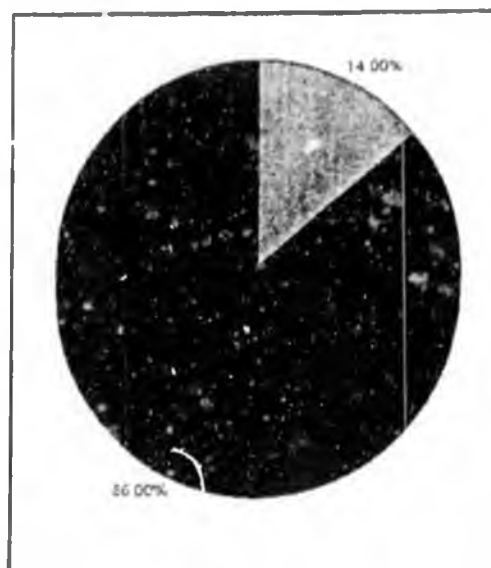
Question No. 3 – How much did you pay the transporter for all transportation, and if applicable, accommodations in the hunt area?

	Dollar Range	Number	Percent
□	Less than \$250	0	0.00%
■	\$250 - \$499	11	23.00%
■	\$500 - \$999	8	17.00%
■	\$1,000 - \$1,999	12	25.00%
	\$2,000 - \$2,999	11	23.00%
□	\$3,000 - \$3,999	2	4.00%
	Do Not Know	4	8.00%



Question No. 4 – Was the provided transportation part of a hunt contract with a guide?.

	Responses	Number	Percent
□	Yes	7	14.00%
■	No	43	86.00%

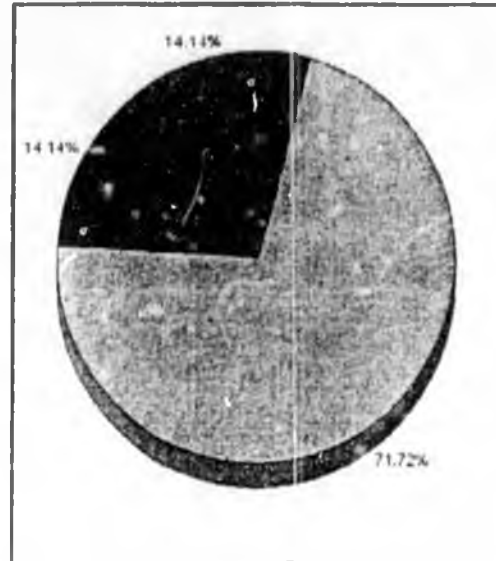


Appendix B

Department of Community and Economic Development
Transporter Client – Survey Results

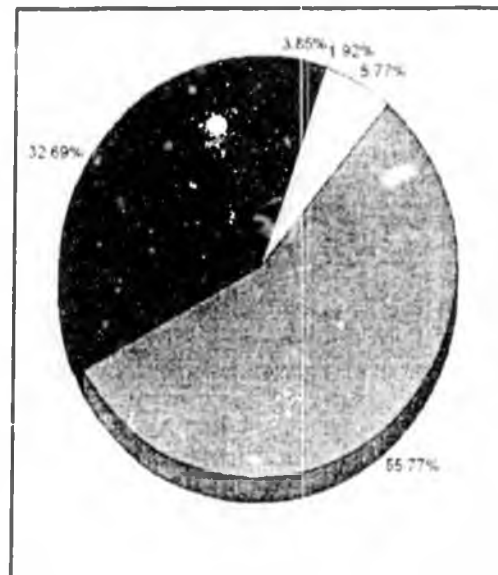
Question No. 5 – If transportation was part of the guided hunt contract, how much did you pay the guide for the hunt?

Dollar Range	Number	Percent
Less than \$3,000	5	71.72%
\$3,000 - \$3,999	1	14.14%
\$5,000 - \$7,999	1	14.14%



Question No. 6 - What mode of transportation was used by the guide or transporter?

Transportation	Number	Percent
Airplane	29	55.77%
Boat	17	32.69%
Horse	2	3.85%
All-Terrain Vehicle	1	1.92%
Other	3	5.77%



Appendix B

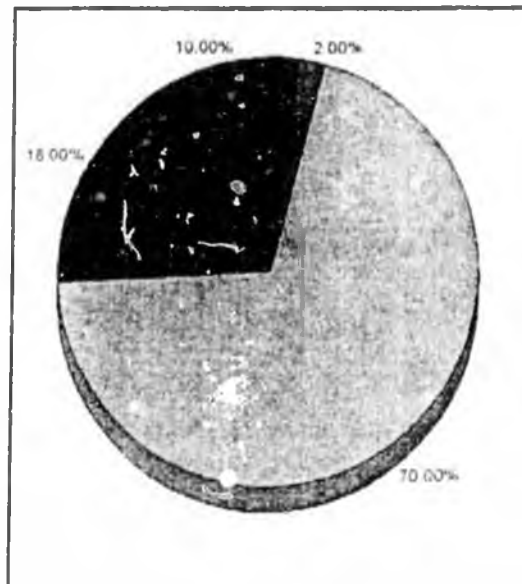
Department of Community and Economic Development
Transporter Client – Survey Results

Question No. 7 - What was the ownership status of the land you hunted on?

Responses	Number	Percent
Do Not Know	18	31.03%
Other State Owned	15	25.86%
National Wildlife Refuge	9	15.52%
U.S. Forest Service	5	8.62%
Other	3	5.17%
National Park Service	2	3.45%
Other Federal Land	2	3.45%
Private	2	3.45%
Alaska Native Land	1	1.72%
State Park Service	1	1.72%

Question No. 8 – How would you rate your overall hunt experience?

Satisfaction	Number	Percent
Very Satisfied	35	70%
Somewhat Satisfied	9	18%
Not Very Satisfied	5	10%
Not At All Satisfied	1	2%



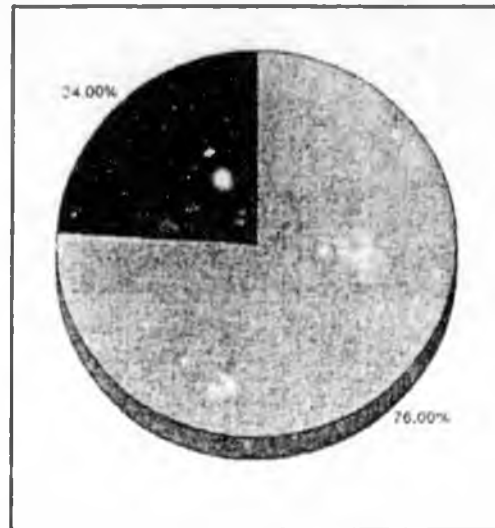
Some of the reasons identified for those who indicated less than satisfactory hunt or transporter experience were: lack of game animals, too many other hunters, bad weather, or wrong location.

Appendix B

Department of Community and Economic Development Transporter Client – Survey Results

Question No. 9 – Were you aware that transporters are licensed by the State of Alaska?

Responses	Number	Percent
■ Yes	38	76.00%
■ No	12	24.00%



We asked the transporter clients to provide any other comments that they would like to share about their transporter or hunt experience. The following are some of the client comments:

- *"Transporters have no obligation to stay out of areas where someone is already camped out or they have already dropped off customers. Other outfitters actually landed on the place our tent was set up and dropped people off right in front of us. This was a super cub not a highway."*
- *"All outfitters and transporters I speak to warn of other people getting dropped off on top of you. Is there anyway of designating areas, or having drop fees in areas? That would help deter these businesses from piling into one area. They would then be forced to find new areas. They could claim these as theirs."*
- *"Was charged a 10% surcharge for my hunting license and moose tag in Iliamna because I chose to pay by credit card. I was under the impression that hunting licenses and tags was regulated by the State of Alaska and that surcharges were not allowed (even when paying by credit card) ..."*

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November 17, 2003

Ms. Pat Davidson, Legislative Auditor
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

RE: GUIDES AND TRANSPORTERS - PRELIMINARY AUDIT

Dear Ms. Davidson:

Thank you for the opportunity to comment on your preliminary audit report on Guides and Transporters. We appreciate the thoroughness of your review and discussion of the various aspects related to this industry.

Although the Department does not support reestablishing a licensing board, we concur that statutes could be enhanced to provide more aggressive enforcement of unethical or unsafe practices. While we support authority for additional enforcement and for the public health, safety and consumer protection, we are concerned that new laws not be enacted which would be used to regulate the supply of practitioners for the management purposes or solely for the economic benefit of licensees.

Again, thank you for the opportunity to comment on your review and findings. I will make my staff available to provide information and assist the committee as requested.

Sincerely,

Edgar Blatchford
Commissioner

cc: Rick Urion, Director
Division of Occupational Licensing

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FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB076-DPS-AST-01-28-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title An Act relating to Big Game Commercial RDU Alaska State Troopers
Services Board and to the Regulation Component AST Detachments
 Sponsor Representative Samuels
 Requester House Resources Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 Budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this bill will have no fiscal impact on the Department of Public Safety. Provisions of this bill will create a Commercial Services Board for Big Game Guide-outfitters and Transporters. In part, the Board will prepare, grade, certify, and issue guide-outfitter licenses, impose appropriate disciplinary sanctions under provisions of AS 08. The Board will disseminate information about exams, and may adopt regulations to establish a code of ethics.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223
 Division: Alaska State Troopers Date/Time 1/28/05 3:24 PM
 Approved by: Commissioner William Tandeske Date 1/28/2005
 Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: H.B. 76
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Relating to the Big Game Commercial RDU Wildlife Conservation
Services Board and to the Regulation Component Wildlife Conservation
 Sponsor Representative Samuels
 Requester House Resources Committee Component No. 473

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2005	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone 465-6137
 Division Legislative Liaison Date/Time 1/28/05 8:35 a.m.
 Approved by: Acting Commissioner Wayne Regelin Date 1/28/2005
 Agency Alaska Department of Fish & Game

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 76
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title Big Game
Commercial Services Board
 Sponsor Samuels, Joule
 Requester House Resources

Dept Affected: Commerce
 RDU Occupational Licensing (117)
 Component Occupational Licensing
 Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel	30.0	30.0	30.0	30.0	30.0	30.0
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	30.0	30.0	30.0	30.0	30.0	30.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	30.0	30.0	30.0	30.0	30.0	30.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	30.0	30.0	30.0	30.0	30.0	30.0
TOTAL	30.0	30.0	30.0	30.0	30.0	30.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 76 establishes the Big Game Commercial Services Board consisting of seven members who will assume responsibility for licensing and examinations. This fiscal note provides travel funding and assumes the following board composition: 2 members from Southeast, 2 members from Anchorage, 2 members from Kodiak, 1 member from Fairbanks. It assumes the Board will meet at least four times each year, at four days per event to cover meeting and examinations. Other operating costs for the licensing of guides are already included in the Governor's FY06 budget at \$77.6. In accordance with the self-sufficiency requirement of AS 08.01.065(c) the new costs of \$30.0 will be funded by licensing fees.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by: Edgar Blatchford
 Agency: Commerce, Community, and Economic Development

Phone: (907) 465-2144
 Date/Time: 2/2/05 11:26 AM
 Date: 2/2/2005



Alaska State Legislature

Please enter into the record my testimony to the House Resource Committee
 Committee name

Committee on HB 76 Big Game Commercial Services, dated Feb. 2, 2005
 Dear Chairmen: Bill/Subject

Unless the legislature or this committee would like to begin with this piece of legislation (HB 76) by amending it to include the creation of a Prospectus Allocation Process, patterned after the effective National Park Service's commercial-use allocation, that would limit the number of operators by area (not exclusive; but limit to x-number of operators) and the number of clients/species(?) per operator - through a joint-board process (Board of Game; Big Game Commercial Services Board) - that would effectively address concerns of congestion, over-harvest of game, and their combined impact resulting in the loss of reasonable opportunity for subsistence users and other Alaskan Hunters, the committee should then consider amending other aspects of the legislation so as to not preferentialize the industry over other users, nor preferentializing between individual entities within the industry; A prospectus allocation that limits operations to x-number of operators within a specific Guide Use Area will satisfy the State Constitution (Article VIII) as well as both McDowell v State and Owsichuk v State:

Other Amendments To Consider:

Page 13, Lines 28-31 and Page 14, Lines 1-2: This Section 25(A)(2) needs redrafting; with the growing availability of new technology including VHF surface to air radios, marine-band radios, over the horizon high-frequency radio communications, cell phones, satellite phones, established land phone lines, etc.,

Signed: [Signature] (Next Page Please)
 Testifier

Rob Hardy - Representing Self (Big Game Guide)
 Representing (Optional)

PO Box 876485 Wasilla, AK 99687
 Address

907-376-8986 907-355-5291
 Phone number

Page 2

Testimony - House Resources

HB 76 (Big Game Commercial Service Board) Feb. 2, 2005

Testifier: Rob Hardy 907-376-8986

there is no reason that a commercial operator would not be able to report to DPS a violation or poaching, or a suspected violation or poaching, within 72 hours of when the violation or suspected violation occurred. 20 days is ridiculous and only impedes the effective investigation and subsequent prosecution of said violation and/or violators.

Page 18, Lines 28-29: This Section 29 (e) needs amending; The House Resource Committee should strike the language in lines 28-29 on page 18; "as amended by the board as the board considers necessary"; By allowing any future Big Game Commercial Services Board the unprecedented autonomy of redrawing guide use area boundaries at their whim or desire, is bound to complicate the entire scope of industry operations, equitable opportunity for others to access the resource, and disenfranchise those commercial ~~operator~~ operators with a long-standing history of periodic use. Depending on the make up of the board at any given time, an operator could find themselves in disfavor by the specific board and at odds to achieving an equitable opportunity ~~to~~ to the resource. Also, allowing the board authority to redraw guide use area boundaries at their discretion, is likely to exacerbate conflicts with other users and probably will lead to an increase in the congestion of operators within a limited area.

Page 18, Lines 31 and Page 19, Lines 1-12: This entire sub-section (f) - AS 08.54.750 (f) - should be stricken from the legislation; the Board of Game has plenty of tools at its disposal with which to reduce predator numbers and increase ungulate populations. The controversial nature of predator reduction makes this portion of the proposed legislation likely to fall victim of citizens initiative, referendum, or worse. Also, by allowing other operators into an area for the purpose of predator control, will only complicate
(Next Page Please)

Page 3

Testimony - House Resources

HB 76 (Big Game Commercial Services Board) Feb. 2, 2005

Testifier: Rob Hardy 907-376-8986

and further compromise the operations and viability of the existing operators within said area. In some locations, the current density of operators is already extremely high - such as where I operate in the Nelchina Basin (Game Mgmt Unit 13). By allowing more operators into the area in the name of predator control, reduces the existing operator's scope-of-area, the ability to provide a quality aesthetically pleasing, and the overall viability of continuing operations. It's a finite resource within a limited jurisdiction; only X-number of operators can access that resource within that limited area and provide a quality experience. To further reduce the scope of existing operators' by subjecting them to an increase in competitive commercial operations, does not further their individual sustainability.

AS 08.54.750(f), as written into HB 76, is not a beneficial additive to the legislation. I would encourage the House Committee to remove, and to also seriously consider my other previously described suggestions.

Thank you.

Respectfully yours,

Rob Hardy
Registered Big Game Guide
907-376-8986
rhardy@ideafamilies.org
PO Box 876485
Wasilla, AK 99687



Representative Ralph Samuels

House District 29

Other than the simple transference of powers from the Division of Occupational Licensing to the Board, HB 76 makes the following key changes:

- The board will be made up of 2 licensed guides, 2 licensed transporters, 1 member selected by the Board of Game, one representing private landholders, and one member from the public,
- The board may adopt regulations to establish a code of ethics,
- Violations of federal law will now come under the oversight of the board,
- The board can implement training courses for assistant guides,
- Written contracts are now required for both guides and transporters,
- There is broader authority to impose disciplinary actions and the civil penalty the board can levy is \$5000 (up from \$1000.)
- Transporters and guides must obtain permission before entering private, state or federal land to conduct business,
- Guides may no longer select more than their three guide use areas in a given calendar year,
- The board may amend guide use areas as it sees fit,
- Special predator hunts for carnivores may allow guides to select additional use areas when the Board of Game deems predation a threat to other game species,
- The board may adopt transporter use areas as it sees fit.

HB

107

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.
Tourism & Trade
House State Affairs
119 N. Cushman St. Suite 207
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Alaska State Legislature



While in Session
State Capitol, Room 104
Juneau, Alaska 99801-1182
(907) 465- 3004
Fax: 465-2070
Toll Free: (877) 465-3004

House District 10

House of Representatives

Fax

To: George Utermohle

Fax #: 2029

Number of pages including cover: 1

Fm: Jim Pound

Cc:

Date: February 16, 2005, 4:44 PM

Re: Conceptional amendment to HB 107 (RES) 24-LS0444\Y

At the request of Rep. Seaton please amend CSHB 107(RES) to add

Commercial fishing activities are exempt from Section 3 of this bill.

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Thank you

AMI HB 107
Concept under Sec. 3

Leave commercial
fishing under
rule 82,

Exempt Hunting &
Trapping from
rule 82

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Deveiop.
Tourism & Trade

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House District 10

House of Representatives

Sponsor Statement

HB 107

House Bill 107 is a simple change to existing statute regarding persons who hunt, fish, trap, or view wildlife in Alaska. Presently, if any of these people are obstructed from participating in this most basic of Alaskan experiences, they can seek relief in our courts. The courts are permitted to grant damages for most of the expenses except full attorney's fees and costs. HB 107 will allow the judge to grant these expenses as well.

There is a growing sentiment across the country that disturbing wildlife in any manner is unacceptable. Hunting, fishing, trapping, and viewing wildlife are considered an important part of why we live in Alaska and why thousands of tourists visit our state each year. Those individuals or groups who would hinder a wildlife experience know that most people will not take them to court because of the attorney fees and costs involved with litigation.

Alaskans and visitors should not be subjected to any costs associated with interference, obstruction, or hindrance of their most basic rights. HB 107 will allow an aggrieved person to recoup all of the costs associated with hindering an Alaskan Wildlife Experience.

24-I S0444Y
Utermohle
2/11/05

CS FOR HOUSE BILL NO. 107(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVE RAMRAS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to unlawful obstruction or hindrance of hunting, fishing, trapping, or**
2 **viewing of fish or game; amending Rules 79 and 82, Alaska Rules of Civil Procedure;**
3 **and amending Rule 508, Alaska Rules of Appellate Procedure."**

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

5 *** Section 1.** AS 16.05.790(a) is amended to read:

6 (a) Except as provided in (e) of this section, a person may not intentionally
7 obstruct or hinder another person's lawful hunting, fishing, trapping, or viewing of fish
8 or game by

9 (1) placing one's self in a location in which human presence may alter
10 the

11 behavior of the fish or game that another person is
12 attempting to take or view; or

13 (B) feasibility of taking or viewing fish or game by another
14 person; [OR]

1 (2) creating a visual, aural, olfactory, or physical stimulus in order to
2 alter the behavior of the fish or game that another person is attempting to take or view;

3 or

4 (3) physically interfering or tampering with equipment being used
5 for lawful hunting, fishing, trapping, or viewing purposes.

6 * Sec. 2. AS 16.05.790(e) is amended to read:

7 (e) This section does not apply to

8 (1) lawful competitive practices among persons engaged in lawful
9 hunting, fishing, or trapping;

10 (2) actions taken on private property with the consent of the owner;

11 [OR]

12 (3) the obstruction or hindrance of the viewing of fish or game by a
13 person actively engaged in lawful fishing, hunting, or trapping; or

14 (4) a law enforcement officer while performing the duties of the
15 office.

16 * Sec. 3. AS 16.05.791(b) is amended to read:

17 (b) A person aggrieved by a violation of AS 16.05.790 is entitled to recover
18 general damages and special damages, including license and permit fees, travel costs,
19 guide-outfitting fees, costs for special equipment and supplies, and other related
20 expenses. The prevailing party in an action described in this subsection is entitled
21 to reasonable actual attorney fees and costs.

22 * Sec. 4. The uncoded law of the State of Alaska is amended by adding a new section to
23 read:

24 INDIRECT COURT RULE CHANGE. The provisions of AS 16.05.791(b), amended
25 by sec. 3 of this Act, have the effect of amending Rules 79 and 82, Alaska Rules of Civil
26 Procedure, and Rule 508, Alaska Rules of Appellate Procedure, by providing for the award of
27 reasonable actual attorney fees and costs to the prevailing party in an action brought by a
28 person aggrieved by a violation of AS 16.05.790.

24-LS0444\Y
Utermohle
2/11/05

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IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

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14 person; [OR]

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(2) actions taken on private property with the consent of the owner;

[OR]

(3) the obstruction or hindrance of the viewing of fish or game by a person actively engaged in lawful fishing, hunting, or trapping; or

(4) a law enforcement officer while performing the duties of the office.

* Sec. 3. AS 16.05.791(b) is amended to read:

(b) A person aggrieved by a violation of AS 16.05.790 is entitled to recover general damages and special damages, including license and permit fees, travel costs, guide-outfitting fees, costs for special equipment and supplies, and other related expenses. The prevailing party in an action described in this subsection is entitled to reasonable actual attorney fees and costs.

* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE CHANGE. The provisions of AS 16.05.791(b), amended by sec. 3 of this Act, have the effect of amending Rules 79 and 82, Alaska Rules of Civil Procedure, and Rule 508, Alaska Rules of Appellate Procedure, by providing for the award of reasonable actual attorney fees and costs to the prevailing party in an action brought by a person aggrieved by a violation of AS 16.05.790.

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IN THE LEGISLATURE OF THE STATE OF ALASKA
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[OR]

(3) the obstruction or hindrance of the viewing of fish or game by a person actively engaged in lawful fishing, hunting, or trapping; or

(4) a law enforcement officer while performing the duties of the office.

* Sec. 3. AS 16.05.791(b) is amended to read:

(b) A person aggrieved by a violation of AS 16.05.790 is entitled to recover

(1) general damages and special damages, including license and permit fees, travel costs, guide-outfitting fees, costs for special equipment and supplies, and other related expenses; and

(2) full actual attorney fees and costs of an action to collect damages, fees, and costs under this subsection.

* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE CHANGE. The provisions of AS 16.05.791(b)(2), added by sec. 3 of this Act, have the effect of amending Rules 79 and 82, Alaska Rules of Civil Procedure, and Rule 508, Alaska Rules of Appellate Procedure, by providing for the award of full actual attorney fees and costs to a person aggrieved by a violation of AS 16.05.790.

Rule 79. Costs — Taxation and Review.

Text

(a) Allowance to Prevailing Party. Unless the court otherwise directs, the prevailing party is entitled to recover costs allowable under paragraph (f) that were necessarily incurred in the action. The amount awarded for each item will be the amount specified in this rule or, if no amount is specified, the cost actually incurred by the party to the extent this cost is reasonable.

(b) Cost Bill. To recover costs, the prevailing party must file and serve an itemized and verified cost bill, showing the date costs were incurred, within 10 days after the date shown in the clerk's certificate of distribution on the judgment. Failure of a party to file and serve a cost bill within 10 days, or such additional time as the court may allow, will be construed as a waiver of the party's right to recover costs. The prevailing party must have receipts, invoices, or other supporting documentation for each item claimed. This documentation must be available to other parties for inspection and copying upon request and must be presented to the clerk upon request. Documentation may be filed only if requested by the clerk or in response to an objection.

(c) Objection and Reply. A party may object to a cost bill by filing and serving an objection within 7 days after service of the cost bill. The prevailing party may respond to an objection by filing and serving a reply within 5 days after service of the objection.

(d) Taxing of Costs by Clerk. Promptly upon expiration of the time for filing objections, or if an objection is filed, the time for filing a reply, the clerk shall issue an itemized award of costs allowable under this rule. No cost bill hearing will be held unless requested by the clerk. If a hearing is held, it will be limited to issues identified by the clerk in the notice of hearing. The clerk may deny costs requested by the prevailing party on grounds that

- (1) the cost is not allowed under paragraph (f);
- (2) the party failed to provide an adequate description or adequate supporting documentation following a request by the clerk or another party; or
- (3) the amount claimed by the prevailing party is unreasonable.

The clerk may not deny costs on grounds that the costs were not necessarily incurred in the action. If a party objects on this basis, the party must seek review under paragraph (e) of the clerk's action in awarding the cost.

(e) Review by Court. A party aggrieved by the clerk's action in awarding costs may file a motion for review of the clerk's award. The motion must be filed and served within five days after the date shown on the clerk's certificate of distribution on the award. The motion must particularly designate each ruling of the clerk to which objection is made. Matters not so designated will not be considered by the court.

Costs awarded by the clerk are presumed to be reasonable.

(f) Allowable Costs. The following items are the only items that will be allowed as costs:

- (1) the filing fee;
- (2) fees for service of process allowable under Administrative Rule 11 or postage when process is served by mail;
- (3) other process server fees allowable under Administrative Rule 11;
- (4) the cost of publishing notices required by law or by these rules;
- (5) premiums paid on undertakings, bonds, or security stipulations where required by law, ordered by the court, or necessary to secure some right accorded in the action;
- (6) the cost of taking and transcribing a deposition allowed by Civil Rule 30(a) or 31(a) (including a deposition that is ordered by the court or agreed to by the parties under those rules), as follows:

- (A) the court reporter's fee and travel expenses to communities where a local court reporter is not available;
- (B) expenses allowed by Civil Rule 30.1(e) for recording, editing, or using an audio or audio-visual deposition; and
- (C) the cost of the original plus one copy of the transcript;
- (7) witness fees allowed under Administrative Rule 7;
- (8) the fee of an interpreter or translator for a witness when that witness is entitled to a fee under Administrative Rule 7;
- (9) travel costs allowed under paragraph (g) of this rule;
- (10) long distance telephone charges for telephonic participation by an attorney or party at court proceedings, depositions, the meeting of the parties required by Civil Rule 26(f), and interviews of witnesses other than the party;
- (11) charges paid by the prevailing party's attorney for computerized legal research;
- (12) copying costs for paper copies, photographs, and microfilm, the cost of scanning, imaging, coding, and creating electronic media files, such as computer diskettes or tapes, and the cost of duplicating text files or otherwise copying documents or data in an electronic medium, as follows:
 - (A) for copies from the court, a copy center, or a person or entity other than the prevailing party's attorney, the amount charged for the copies; and
 - (B) for copies from the prevailing party's attorney, the amount charged by the attorney or \$.15 per copy, whichever is less.
- (13) exhibit preparation costs;
- (14) the cost of transcripts ordered by the court; and
- (15) other costs allowed by statute.
- (g) Travel Costs. (1) Travel costs will be allowed for
 - (A) one attorney to attend trial, hearings on dispositive motions, settlement conferences, and the meeting of the parties required by Civil Rule 26(f), but only if no local attorney is present; if more than one out-of-town attorney attends a proceeding at which no local attorney is present, travel costs will be allowed for the attorney who traveled the shortest distance to the trial site;
 - (B) one attorney to attend depositions, interviews of witnesses who are not deposed, and meetings to review documents produced in the course of discovery;
 - (C) one legal assistant or investigator to interview witnesses who are not deposed or to review documents produced in the course of discovery; and
 - (D) witnesses to the extent permitted by Administrative Rule 7.
- (2) Travel costs are subject to the following limitations:
 - (A) air fare is allowed at the coach class fare or the actual fare, whichever is less;
 - (B) ground transportation, including car rental, is allowed outside the traveler's home city; and
 - (C) food and lodging is allowed at the same per diem rate allowed for court employees.
- (3) In unusually complex cases, the court may allow a prevailing party to recover travel costs for more than one attorney to participate in the activities described in section (g)(1)(A) of this rule. To request travel costs for more than one attorney, the prevailing party must file a motion for court review of the clerk's award as provided in paragraph (e) and must include supporting documentation for each item claimed. These costs should not be included in the cost bill filed with the clerk.

(4) To recover travel costs, the prevailing party must include the following information for each trip: the name of the traveler, whether the traveler is an attorney, legal assistant, or investigator, the reasons for the travel, and the travel dates.

(h) Equitable Apportionment Under AS 09.17.080. In a case in which damages are apportioned among the parties under AS 09.17.080, costs must be apportioned and awarded according to the provisions of Civil Rule 82(e).

Rule 82. Attorney's Fees.

Text

(a) Allowance to Prevailing Party. Except as otherwise provided by law or agreed to by the parties, the prevailing party in a civil case shall be awarded attorney's fees calculated under this rule.

(b) Amount of Award.

(1) The court shall adhere to the following schedule in fixing the award of attorney's fees to a party recovering a money judgment in a case:

Judgement and, if awarded prejudgement interest

	Contested with trial	Contested without trial	Non Contested
First \$25,000	20%	18%	10%
Next \$75,000	10%	*8%	*3%
Next \$400,000	10%	*6%	*2%
Over \$500,000	10%	*2%	*1%

(2) In cases in which the prevailing party recovers no money judgment, the court shall award the prevailing party in a case which goes to trial 30 percent of the prevailing party's reasonable actual attorney's fees which were necessarily incurred, and shall award the prevailing party in a case resolved without trial 20 percent of its actual attorney's fees which were necessarily incurred. The actual fees shall include fees for legal work customarily performed by an attorney but which was delegated to and performed by an investigator, paralegal or law clerk.

(3) The court may vary an attorney's fee award calculated under subparagraph (b)(1) or (2) of this rule if, upon consideration of the factors listed below, the court determines a variation is warranted:

- (A) the complexity of the litigation;
- (B) the length of trial;
- (C) the reasonableness of the attorneys' hourly rates and the number of hours expended;
- (D) the reasonableness of the number of attorneys used;
- (E) the attorneys' efforts to minimize fees;
- (F) the reasonableness of the claims and defenses pursued by each side;
- (G) vexatious or bad faith conduct;
- (H) the relationship between the amount of work performed and the significance of the matters at stake;

(I) the extent to which a given fee award may be so onerous to the non-prevailing party that it would deter similarly situated litigants from the voluntary use of the courts;

(J) the extent to which the fees incurred by the prevailing party suggest that they had been influenced by considerations apart from the case at bar, such as a desire to discourage claims by others against the prevailing party or its insurer; and

(K) other equitable factors deemed relevant.

If the court varies an award, the court shall explain the reasons for the variation.

(4) Upon entry of judgment by default, the plaintiff may recover an award calculated under subparagraph (b)(1) or its reasonable actual fees which were necessarily incurred, whichever is less. Actual fees include fees for legal work performed by an investigator, paralegal, or law clerk, as provided in subparagraph (b)(2).

(c) Motions for Attorney's Fees. A motion is required for an award of attorney's fees under this rule or pursuant to contract, statute, regulation, or law. The motion must be filed within 10 days after the date shown in the clerk's certificate of distribution on the judgment as defined by Civil Rule 58.1. Failure to move for attorney's fees within 10 days, or such additional time as the court may allow, shall be construed as a waiver of the party's right to recover attorney's fees. A motion for attorney's fees in a default case must specify actual fees.

(d) Determination of Award. Attorney's fees upon entry of judgment by default may be determined by the clerk. In all other matters the court shall determine attorney's fees.

(e) Equitable Apportionment Under AS 09.17.080. In a case in which damages are apportioned among the parties under AS 09.17.080, the fees awarded to the plaintiff under (b)(1) of this rule must also be apportioned among the parties according to their respective percentages of fault. If the plaintiff did not assert a direct claim against a third-party defendant brought into the action under Civil Rule 14(c), then

(1) the plaintiff is not entitled to recover the portion of the fee award apportioned to that party; and

(2) the court shall award attorney's fees between the third-party plaintiff and the third-party defendant as follows:

(A) if no fault was apportioned to the third-party defendant, the third-party defendant is entitled to recover attorney's fees calculated under (b)(2) of this rule;

(B) if fault was apportioned to the third-party defendant, the third-party plaintiff is entitled to recover under (b)(2) of this rule 30 or 20 percent of that party's actual attorney's fees incurred in asserting the claim against the third-party defendant.

(f) Effect of Rule. The allowance of attorney's fees by the court in conformance with this rule shall not be construed as fixing the fees between attorney and client.

Rule 508. Costs.

Text

(a) Dismissal or Denial. If an appeal is dismissed or petition denied by the appellate court, costs shall not be allowed to the appellee or respondent, unless otherwise ordered by the court.

(b) Affirmance of Judgment. In all cases of affirmance of a judgment or any order or decision of the superior court, costs shall be allowed to the appellee or respondent unless otherwise ordered by the court.

(c) Reversal or Partial Reversal. In cases of reversal of any judgment, order or decision of the superior court, costs shall be allowed the appellant or petitioner unless otherwise ordered by the court. In cases of partial affirmance and partial reversal, the court will determine which party, if any, shall be allowed costs.

(d) Costs to be Awarded. When costs are awarded in the appellate court, they shall include, unless the court otherwise orders and subject to Rules 210(b)(6) and (c)(6), the filing fee, the costs of preparing the transcript, premiums for any bond under Rule 204(c) or 204(d), and the costs of duplicating and mailing briefs and excerpts of records. Duplicating costs will not be awarded in excess of the rate generally charged by printers in the city in which counsel is located.

(e) Attorney's Fees. Attorney's fees may be allowed in an amount to be determined by the court. If such an allowance is made, the clerk shall issue an appropriate order awarding fees at the same time that an opinion or an order under Rule 214 is filed. If the court determines that an appeal or cross-appeal is frivolous or that it has been brought simply for purposes of delay, actual attorney's fees may be awarded to the appellee or cross-appellee.

(f) Procedure.

(1) Bill of Costs. At the time an opinion or an order under Rule 214 is filed, the clerk shall notify the party or parties entitled to recover costs under subsections (b) and (c) of this rule. That party or parties shall serve and file an itemized and verified bill of costs within 10 days after the date of notice of the opinion or order. Date of notice is defined in Civil Rule 58.1(c). The bill of costs shall be limited to the items specified in subsection (d) of this rule. Failure to file a timely bill of costs is a waiver of the right to recover costs. Objections to the bill of costs may be filed within 7 days after service of the bill. Promptly after expiration of the time for filing objections, the clerk shall issue an itemized award of costs. A hearing on the bill of costs shall not be held unless requested by the clerk. The clerk may not delegate to a deputy clerk the authority to award costs in cases in which objection is filed, except with the approval of the chief justice. Return of the record shall not be delayed pending the award of costs.

(2) Reconsideration. A party aggrieved by an order awarding costs under subsection (f)(1) of this rule or an order awarding attorney's fees under subsection (e) of this rule may file a motion for reconsideration within ten days after the date of notice of the order. The non-moving party may file a response within seven days after service of the motion. Reconsideration of an award of costs or attorney's fees under (f)(1) or (e) will be determined by an individual justice or judge. Full court reconsideration of such individual justice's or judge's decision may be sought pursuant to Appellate Rule 503(h)(2)(B).

(3) Rehearing. If a timely petition for rehearing is filed, the clerk shall not award costs until the court has disposed of the case on rehearing. Supplemental or amended bills of costs may not be filed after disposition of a petition for rehearing unless requested by the court.

(g) Exemptions.

(1) **Workers' Compensation Appeals.** In an administrative appeal from the Alaska Workers' Compensation Board or in an appeal from a denial of a claim of benefits under the Employment Security Act, an award of costs or attorney's fees shall not be made against the claimant in either the supreme court or the superior court unless the court finds that the claimant's position was frivolous, unreasonable, or taken in bad faith.

(2) In an administrative appeal from the Alaska Workers' Compensation Board, full reasonable attorney's fees will be awarded to a successful claimant. Counsel for the claimant shall serve and file an affidavit of services rendered on appeal within 10 days from the date of notice of an opinion or an order under Rule 214. Objections to the affidavit of services may be filed within 7 days of service of the affidavit. An individual justice shall determine the amount of fees to be awarded.

(h) **Execution.** Upon proper application, the clerk of the trial court may issue writs of execution upon the award of costs and attorney's fees made pursuant to this rule, without the approval of a judge of the trial court.

(SCO 439 effective November 15, 1980; amended by SCO 507 effective July 1, 1982; by SCO 508 effective July 1, 1982; by SCO 512 effective October 1, 1982; by SCO 552 effective February 1, 1983; by SCO 554 effective April 4, 1983; by SCO 562, effective May 2, 1983; by SCO 583 effective February 1, 1984; by SCO 619 effective June 15, 1985; by SCO 847 effective January 15, 1988; by SCO 1024 effective July 15, 1990; by SCO 1155 effective July 15, 1994; by SCO 1279 effective July 31, 1997; by SCO 1440 effective October 15, 2001; and by SCO 1482 effective October 15, 2002)

Note: In 1997 the legislature enacted AS 18.16.030(m), which provides that a filing fee may not be required of, and court costs may not be assessed against, a minor in a proceeding to bypass parental consent to an abortion. According to ch. 14, § 10 SLA 1997, AS 18.16.030(m) has the effect of amending Administrative Rule 9, Civil Rule 79, and Appellate Rule 508 by prohibiting filing fees and assessment of court costs in certain actions. Instead of amending individual rules to implement AS 18.16.030, the supreme court has adopted a separate rule on judicial bypass proceedings in the superior court and a separate rule on judicial bypass appeals. See Probate Rule 20 & Appellate Rule 220.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: H.B. 107
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Atty Fees: Hunting/Fishing Interference RDU _____
 Component _____
 Sponsor Representative Ramras Component No. _____
 Requester House Resources Committee

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson
 Division: Legislative Liaison
 Approved by: Acting Commissioner Wayne Regelin
 Agency: Alaska Department of Fish & Game

Phone 465-6137
 Date/Time 1/28/05 8:35 a.m.
 Date 1/28/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB107-LAW-T&WC-2-1-1
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act providing for the award of full actual RDU CIVIL
attorney fees and costs to a person aggrieved by unlawful...." Component Torts and Workers' Compensation
 Sponsor Representative Ramras
 Requester House Resources Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	*****	*****	*****	*****	*****	*****
Travel	*****	*****	*****	*****	*****	*****
Contractual	*****	*****	*****	*****	*****	*****
Supplies	*****	*****	*****	*****	*****	*****
Equipment	*****	*****	*****	*****	*****	*****
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match	*****	*****	*****	*****	*****	*****
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill amends AS 16.05.791(b) by allowing a person aggrieved by unlawful obstruction or hindrance of hunting, fishing, or the viewing of fish or game to recover full actual attorney fees and costs of action to collect damages, fees, and costs. The Department of Law is unable to recall any lawsuits filed against the State under AS 16.05.790 however, this amendment may make fishers or hunters more likely to engage in litigation. If that were to happen, there would be a workload fiscal impact, but the Department of Law is not able to estimate what that would be. An actual award of fees and costs against the State would be requested in the judgments & claims section of the annual supplemental appropriations bill and are thus not included in this fiscal note.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 2/2/05 8:14 AM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/2/2005
 Agency: Department of Law

HB

130

(FILE 1)

Received in the House: _____ | Received in the Senate: _____
(Date/Time) (Date/Time)

CONFERENCE COMMITTEE REPORT

Date: May 13, 2005
(Reported out of Committee)

MR. SPEAKER: MR. PRESIDENT:

The **CONFERENCE COMMITTEE** with limited powers of free conference considering:
House Version:

CS FOR HOUSE BILL NO. 130(FIN) am

"An Act relating to the grant of certain state land to the University of Alaska; relating to the duties of the Board of Regents; establishing the university research forest; and providing for an effective date."

and

Senate Version:

SENATE CS FOR CS FOR HOUSE BILL NO. 130(FIN)

(same title)

Recommends the:

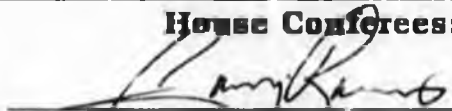

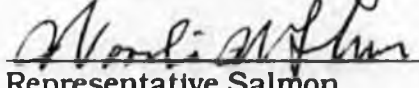
CCS HB 130 be adopted.

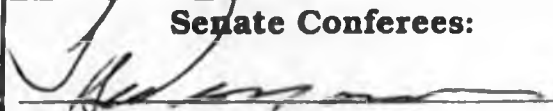
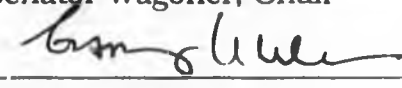
New Title (see attached) Same Title as: House Version Senate Version

- or - Recommends the: House Version Senate Version be adopted.

House Letter of Intent attached.

FN #	List by Dept(s)	New Fiscal Note	Previous Fiscal Note	Fiscal Impact	Indet.	Zero
1	F+G		✓			
2	LAW		✓			
3	DNR		✓			
4	UA		✓			

House Conferees:

 Representative Ramras, Chair

 Representative Weyhrauch

 Representative Salmon

Senate Conferees:

 Senator Wagoner, Chair

 Senator Wilken
 Senator Ellis

Return Conference Bill and attachments to the Chief Clerk's Office.

AMENDMENT 1 SCSCSHB 130(FIN)
IN CONFERENCE COMMITTEE

Page 5, line 31-Page 6, line 1-9

- 31 (n) Notwithstanding (a) of this section, the following state land described in
01 the document entitled "University of Alaska Land Grant List 2005," dated January 12,
02 2005, may not be conveyed to the University of Alaska under this section:
- 03 (1) Parcel Number CS.DI.1001, Duke Island;
- 04 (2) Parcel Number MF.1002, Idaho Inlet;
- 05 (3) [(2)] Parcel Number CS.KI.1001, Kelp Island;
- 06 (4) [(3)] Parcel Number HA.CH.1001, Haines-Chilkoot
- 07 (5) [(4)] Parcel Number KT.1004, Neets Creek;
- 08 (6) [(5)] Parcel Number MA.KR.1001, Kodiak Rocket Range;
- 09 (7) Parcel Number ST.1002, Pelican
- 10 (8) (6) Parcel Number PA.1001, Port Alexander; and
- 11 (9) (7) Parcel Number ST.1002, Warm Springs Bay.

AMENDMENT 2SCSCSHB 130(FIN)
IN CONFERENCE COMMITTEE

Page 7, line 3-15

Delete Line 13 & 15

03 (q) Notwithstanding (a) of this section, the state land identified in this
04 subsection and described in the document entitled "University of Alaska Land Grant
05 List 2005," dated January 12, 2005, may not be conveyed to the University of Alaska
06 under this section if the land is included in a borough formed before July 1, 2009. If a
07 borough is not formed before July 1, 2009, the land described in this subsection shall
08 be conveyed to the University of Alaska on July 1, 2009. If a borough is formed
09 before July 1, 2009, and the borough does not select land described in this subsection
10 before January 1, 2013, the land not selected by the borough shall be conveyed to the
11 University of Alaska on June 30, 2013. The following land is subject to the provisions
12 of this subsection:

- 13 *[(1) Parcel Number MF.1002, Idaho Inlet;]*
14 (2) Parcel Number PA.1002, Mite Cove; and
15 *[(3) Parcel Number ST.1002, Pelican.]*

renumber accordingly

ALASKA STATE LEGISLATURE



Conference Committee on HB 130

MEMO

To: Representative John Harris, Speaker of the House
Senator Ben Stevens, Senate President
From: Representative Jay Ramoras, Chair
Date: May 12, 2005
Re: Request for Limited Free Conference

The Committee has failed to agree to the following sections which are different in CSHB 130(FIN) and 24-GH1034X.A and SCSCSHB 130(FIN) and respectfully request authority of limited free conference.

House Version	Senate Version	
Page 5, line 31-Page 6, line 11	Page 5, line 31-Page 6, line 1-9	Section 3, subparagraph (n)
No reference	Page 7, line 3-15	Section 3, subparagraph (q)
Page 7, line 13-16	No reference	Section 4, subparagraph (c)(2)



Representative Jay Ramoras-Chair

Senator Tom Wagoner

Representative Bruce Weyhrauch

Senator Gary Wilken

Representative Woodie Salmon

Senator Johnny Ellis

The information attached to this memo is CONFIDENTIAL and/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memo is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

ALASKA STATE LEGISLATURE

Co-Chair,
House Resources Committee
Member
State Affairs Committee
Econ. Devel. Tour & Trade
Joint Armed Services Comm.



State Capitol, Room 104
Juneau, AK 99801-1182
(907) 465-3004 fax: 465-2070
Interim
119 N. Cushman St. Suite 207
Fairbanks, AK 99701
(907) 452-1088 fax: 452-1146

Representative Jay Ramras

Fax

To: Legis Legal
Fm: Jim Pound
Date: May 13, 2005
Re: SCSCSHE 130 (FIN) 24-GH1034P
Via Fax 465-2029 3 pages including cover

Please use the above reference bill, amend with the attached amendments and return in final as a Conference Committee CS.

Thanks

The information attached to this document is **CONFIDENTIAL** and/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this document is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

HB 130 Bill Comparisons

Senate CS for CS For House Bill 130(FIN)	CS for House Bill 130(FIN)am
P. 2, L. 23 - Language deleted.	P. 2, L. 24-25 - (10) ensure that the University of Alaska's Cooperative Extension Service is adequately staffed to meet the needs of the public.
P. 4, L. 8-10 - "however, an easement along tidewater reserved by the commissioner under AS 38.05.127 may not exceed 25 feet."	P. 4, L. 10 - Language deleted.
P. 6, L. 5 - (Added) (3) Parcel Number HA.CH.1001, Haines-Chilkoot;"	P. 6, L. 4 - (Added) "(2) Parcel Number MF.1002, Idaho Inlet;" P. 6, L. 6 - (Added) "(4) Parcel Number PA.1002, Mite Cove" P. 6, L. 9 - (Added) "(7) Parcel Number ST. 1002, Pelican;"
P. 6, L. 16 - "such"	
	P. 6, L. 16-19 - (Added) "If a borough is formed before July 1, 2009, and the borough does not select land described in this subsection before January 1, 2013, the land not selected by the borough shall be conveyed to the University of Alaska on June 30, 2013. The following land is subject to this subsection: (1) Parcel Number SD.1001, Beecher Pass; (3) Parcel Number CS.TL.1001, Three Lake Road; (6) Parcel Number CS.EW.1001, Earl West Cove; (8) Parcel Number SD. 1001, Thomas Place."
P. 7, L. 3-15 (Added) "(q) Notwithstanding (a) of this section, the state land identified in this subsection and described in the document entitled "University of Alaska Land Grant List 2005," dated January 12, 2005, may not be conveyed to the University of Alaska under this section if the land is included in a borough formed before July 1, 2009. If a borough is not formed before July 1, 2009, the land described in this subsection shall be conveyed to the University of Alaska on July 1, 2009. If a borough is formed before July 1, 2009, and the borough does not select the land described in this subsection before January 1, 2013, and the land not selected by the borough shall be conveyed to the University of Alaska on June 30, 2013. The following land is subject to the provisions of this subsection: (1) Parcel Number MF.1002, Idaho Inlet (2) Parcel Number PA.1002, Mite Cove; and (3) Parcel Number ST.1002, Pelican."	

HB 130 Bill Comparisons

Senate CS for CS For House Bill 130(FIN)	CS for House Bill 130(FIN)am
	P. 7, L. 13-16 - (Added) "(2) may offer second refusal to a nonprofit organization established under the laws of the state that is located in the same region as the land that is offered for sale and that has been established for the purpose of managing, developing, selling, or using land consistent with historic uses."



FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 2005

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would provide for the conveyance of approximately 260,000 acres of state land to the University of Alaska (university), most of it over the next three years.

This bill is the product of more than a year of discussions between the Department of Natural Resources (department) and the university. Its major goal is to supplant the more time-consuming and expensive features of legislation enacted in 2000 (ch. 136, SLA 2000). Statutory changes enacted in ch. 136, SLA 2000 provided for a ten-year process during which the university would select up to 260,000 acres of state-owned land to be conveyed to the university for the primary purpose of generating income for the university. Unfortunately, that process has proved difficult, expensive, time-consuming, and subject to litigation. To date, no land has been conveyed to the university under ch. 136, SLA 2000.

Over the course of the past year, the university and the department have reached an agreement on land that may be conveyed to the university without unreasonably conflicting with programs associated with, and uses of, state land managed by the department. The land is identified in a document titled "University of Alaska Land Grant List 2005," dated January 12, 2005, a copy of which will be provided upon request. The bill I transmit today would provide legislative approval for the conveyance of that land to the university, thereby avoiding unnecessary delay and expense, and expediting a highly significant source of income for the university.

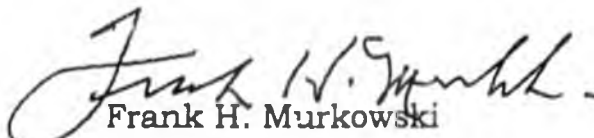
The bill also would establish a university research forest on certain land to be conveyed under the bill in 2055, or soon after that, that is located mainly in the Tanana Valley State Forest. The research forest would be used to advance research into forest practices, ecology, wildlife management, and recreation. Existing law authorizes the university to create a demonstration forest on land selected and

The Honorable John Harris
February 4, 2005
Page 2

conveyed under ch. 136, SLA 2000. This bill would repeal and reenact that law to establish the research forest without requiring a separate procedure. Because the land designated as the university research forest would not be conveyed to the university until 2055, it would be managed by the department until then under applicable state land use and forest management plans, and other applicable state law. While the research forest land is under department management, the department would be able to dispose of certain natural resources located on that land, so long as the disposal is consistent with the purposes of the research forest and complies with other applicable law.

I urge your prompt and favorable action on this measure, which will provide for the cost-effective and timely conveyance of land to the university in order to ensure a very significant and additional source of income for the support of public higher education in Alaska and to secure the benefits of a research forest.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 130
 (H) Publish Date: 2/7/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Draft University Lands Bill RDU _____
 Component _____
 Sponsor Rules Committee
 Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplier						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone 465-6137
 Division Legislative Liaison Date/Time 1/25/05 4:55 PM
 Approved by: Acting Commissioner Wayne Regelin Date 1/25/2005
 Agency Alaska Department of Fish & Game

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 130
 (H) Publish Date: 2/7/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act granting certain state lands to the University of Alaska..." RDU: CIVIL
 Component: Natural Resources
 Sponsor: Possible Governor
 Requester: _____ Component No.: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	18.6					
Travel	0.1					
Contractual	2.1					
Supplies	0.4					
Equipment	0.4					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	21.6	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	21.6					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type- Do not abbreviate)						
TOTAL	21.6	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill is intended to expedite the conveyance of state land to the University of Alaska initiated under prior legislation, ch. 136, SLA 2000. The Department of Law does not anticipate a significant long-term fiscal impact from passage of this legislation; however, it is clear that court tests on the land agreement may be expected. It is estimated that approximately 100 attorney hours might be required in defending such challenges.

Prepared by: Kathryn Daughheteo, Director Phone 465-5427
 Division: Administrative Services Date/Time 1/11/05 11:28 AM
 Approved by: Kathryn Daughheteo for Gregg D. Renkes, Attorney General Date 1/11/2005
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: HB 130
 (H) Publish Date: 2/7/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: Grant of Lands to the University of Alaska RDU: Resource Development
 Component: Title Acquisition and Defense
 Sponsor: Rules
 Requester: Governor Component No.: 2459

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	72.0	72.0	72.0	0.0	0.0	0.0
Travel	2.5	2.5	0.0	0.0	0.0	0.0
Contractual	300.5	236.7	5.5	0.0	0.0	0.0
Supplies	5.0	5.0	5.0	0.0	0.0	0.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	380.0	316.2	82.5	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (***)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	380.0	316.2	82.5	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	380.0	316.2	82.5	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	0	0	0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill requires DNR to convey title to 260,000 acres of specifically identified parcels to the University of Alaska by June 30, 2007. Conveying the title (including title search, reserving easements, reserving navigable waters, and resolving any title problems) requires staff time to prepare legal descriptions, determine condition of title and resolve problems that are discovered, prepare conveyance documents and update the state's computerized records system. Because of these requirements, and due to a shortage of existing trained staff, contractual monies have been requested to outsource the title work to private contractors. It is anticipated that one full-time staff position will be necessary:

One (1) Natural Resource Manager I for 3 years (FY06, FY07 and FY08) at a cost of \$72,000/year, to coordinate, issue title contract and oversee the work of the contractors, to serve as the point of

Prepared by: Bob Loeffler Phone 269-8625
 Division: Mining, Land and Water Date/Time 1/12/2005
 Approved by: Tom Irwin, commissioner Date 1/12/2005
 Agency: Natural Resources

(Analysis cont.)

contact for the project, coordinating with University staff, and reviewing the title research. This position will also be responsible for resolving any clouds on title issues.

Other costs include occasional travel to perform title research or survey inspection work. Contractual also includes office space rental (\$6,200 per person/year), phones, photo-copying, postage, etc. Supplies include basic office supplies and computer/software purchases.

This bill is intended to expedite the conveyance of state lands, including the mineral estate, to the University of Alaska by conveying to the Board of Regents by quitclaim deed those state lands identified for conveyance to the University in a document entitled "University of Alaska Land Grant List 2005." This "Land Grant List" includes lands that make up part of the Nenana oil and gas basin.

***Based on the subsurface information currently available, the Nenana basin is thought to be gas-prone. DNR believes that the gas potential of this basin ranges from moderate to good. The basin is also in close proximity to markets in Fairbanks. Andex Resources currently has an oil and gas exploration license for part of the Nenana Basin. It is impossible without further exploration to predict the exact fiscal impacts. However, the conveyance of part of the Nenana oil and gas basin to the University of Alaska could result in a significant new source of revenue and /or energy for the University with a corresponding decrease in general and permanent fund revenues.

There is a similar but lesser impact from transferring the surface and subsurface from other lands that DNR would otherwise sell or lease. That is, the Department anticipates an unspecified decrease in future revenues from the loss of these lands.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: HB 130
 (H) Publish Date: 2/7/05

Revision Date/Time (Note if correction): _____ Dept. Affected: University of Alaska
 Title: University Lands RDU: Statewide Programs & Services
 Component: Statewide Services
 Sponsor: House Rules Committee
 Requester: Governor Murkowski Component No. 730

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual	500.0	250.0	250.0	250.0	250.0	250.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	500.0	250.0	250.0	250.0	250.0	250.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type - Do not abbreviate)	500.0	250.0	250.0	250.0	250.0	250.0
TOTAL	500.0	250.0	250.0	250.0	250.0	250.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

In the short term (6 years) this bill would provide very little operating revenue, due to the fact that the funding resulting from this bill is deposited into UA's Land Grant Trust Fund (LGTF, an endowment that has a payout policy similar to the POMV principles i.e., 5% of the prior five year endowment average), however in the long term, after substantial additions to the LGTF endowment UA can see modest operating revenue i.e., in approximately 20 years UA anticipates annual investment earnings on new land sales to reach 1% of state general fund support or \$2.6M.

UA Land Management will add minimal staff to accomplish management of the new lands as this land transfer would roughly replace land inventory available for sale. Land Management operating costs are already considered in the net revenue projections.

Prepared by: Pat Pitney, Associate Vice President Phone: _____
 Division: Planning and Budget Development Date/Time: 2/4/05 2:18 PM
 Approved by: Pat Pitney, Associate Vice President Date: 2/4/2005
 Agency: Planning and Budget Development

**Annual Land Sales Investment Endowment
(All Figures x\$1,000)**

<u>Fiscal Year</u>	<u>UA LGTF Endowment Annual Additional Principle</u>	<u>UA LGTF Endowment Cumulative Increment</u>	<u>UA Annual Operating Revenue (Based on UA LGTF endowment using POMV principles 5% of prior 5 year endowment average)</u>
FY2006	2,000.0	2,000.0	0.0
FY2007	3,000.0	5,000.0	0.0
FY2008	4,000.0	9,000.0	30.0
FY2009	5,000.0	14,000.0	100.0
FY2010	5,000.0	19,000.0	220.0
FY2011	5,000.0	24,000.0	390.0
FY2012	5,000.0	29,000.0	610.0
FY2013	5,000.0	34,000.0	850.0
FY2014	5,000.0	39,000.0	1,100.0
FY2015	5,000.0	44,000.0	1,350.0
FY2016	5,000.0	49,000.0	1,600.0
FY2017	5,000.0	54,000.0	1,850.0
FY2018	5,000.0	59,000.0	2,100.0
FY2019	5,000.0	64,000.0	2,350.0
FY2020	5,000.0	69,000.0	2,600.0

University of Alaska Land Grant List 2005



Alaska Department of Natural Resources
January 12, 2005