

12030

SENATE

RESOURCES

State of Illinois
91st General Assembly
Legislation

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91_SB0163enr

SB163 Enrolled

LRB9102634DHmg

1 AN ACT concerning recreational hunting and trapping.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Department of Natural Resources Act is
5 amended by changing Section 1-15 as follows:

6 (20 ILCS 801/1-15)

7 Sec. 1-15. General powers and duties.

8 (a) It shall be the duty of the Department to
9 investigate practical problems, implement studies, conduct
10 research and provide assistance, information and data
11 relating to the technology and administration of the natural
12 history, entomology, zoology, and botany of this State; the
13 geology and natural resources of this State; the water and
14 atmospheric resources of this State; and the archeological
15 and cultural history of this State.

16 (b) The Department shall obtain, store, and process
17 relevant data; recommend technological, administrative, and
18 legislative changes and developments; cooperate with other
19 federal, state, and local governmental research agencies,
20 facilities, or institutes in the selection of projects for
21 study, cooperate with the Board of Higher Education and with
22 the public and private colleges and universities in this
23 State in developing relevant interdisciplinary approaches to
24 problems; evaluate curricula at all levels of education and
25 provide assistance to instructors; and sponsor an annual
26 conference of leaders in government, industry, health, and
27 education to evaluate the state of this State's environment
28 and natural resources.

29 (c) The Director, in accordance with the Personnel Code,
30 shall employ such personnel, provide such facilities, and
31 contract for such outside services as may be necessary to

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1 carry out the purposes of the Department. Maximum use shall
2 be made of existing federal and state agencies, facilities,
3 and personnel in conducting research under this Act.

4 (d) In addition to its other powers, the Department has
5 the following powers:

6 (1) To obtain, store, process, and provide data and
7 information related to the powers and duties of the
8 Department under this Act. This subdivision (d)(1) does
9 not give authority to the Department to require reports
10 from nongovernmental sources or entities.

11 (2) To cooperate with and support the Illinois
12 ~~Governor's~~ Science and Technology Advisory Committee and
13 the Illinois Coalition for the purpose of facilitating
14 the effective operations and activities of such entities.
15 Support may include, but need not be limited to,
16 providing space for the operations of the Committee and
17 the Illinois Coalition.

18 (e) The Department is authorized to make grants to local
19 not-for-profit organizations for the purposes of development,
20 maintenance and study of wetland areas.

21 (f) The Department has the authority to accept, receive
22 and administer on behalf of the State any gifts, bequests,
23 donations, income from property rental and endowments. Any
24 such funds received by the Department shall be deposited into
25 the Natural Resources Fund, a special fund which is hereby
26 created in the State treasury, and used for the purposes of
27 this Act or, when appropriate, for such purposes and under
28 such restrictions, terms and conditions as are predetermined
29 by the donor or grantor of such funds or property. Any
30 accrued interest from money deposited into the Natural
31 Resources Fund shall be reinvested into the Fund and used in
32 the same manner as the principal. The Director shall maintain
33 records which account for and assure that restricted funds or
34 property are disbursed or used pursuant to the restrictions,

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1 terms or conditions of the donor.

2 (g) The Department shall recognize, preserve, and
3 promote our special heritage of recreational hunting and
4 trapping by providing opportunities to hunt and trap in
5 accordance with the Wildlife Code.

6 (Source: P.A. 89-445, eff. 2-7-96; revised 12-2-98.)

7 Section 10. The Wildlife Code is amended by changing
8 Section 3.8 as follows:

9 (520 ILCS 5/3.8) (from Ch. 61, par. 3.8)

10 Sec. 3.8. Migratory waterfowl areas; geese.

11 (a) On any property operated under a Migratory Waterfowl
12 Hunting Area Permit (Commercial) where the principal use is
13 to take wild geese, it is the permit holder's duty to ensure
14 all of the following but only during Canada goose season:

15 (1) That no person takes wild geese except from a
16 blind or pit.

17 (2) That no person establishes or uses any blind or
18 pit for the taking of wild geese within 200 yards of any
19 other blind or pit or within 100 yards of the boundary of
20 the property on which the blind or pit is located.

21 (3) That no person establishes or uses any blind or
22 pit for the taking of wild geese within 200 yards of any
23 wildlife refuge boundary or public road right-of-way
24 adjacent to any State or Federal waterfowl refuge. If a
25 blind or pit has been established for more than 10 years
26 and it was believed by both the landowner and the
27 Department during that time to meet the minimum yardage

Sec. 10. SEAT OF GOVERNMENT. The seat of government of the state is in the city of St. Paul. The legislature may provide by law for a change of the seat of government by a vote of the people, or may locate the same upon the land granted by Congress for a seat of government. If the seat of government is changed, the capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts to be organized by the legislature of the state. The Minnesota Historical Society shall always be a department of this institution.

Sec. 11. STATE SEAL. A seal of the state shall be kept by the secretary of state and be used by him officially. It shall be called the great seal of the state of Minnesota.

Sec. 12. PRESERVATION OF HUNTING AND FISHING. Hunting and fishing and the taking of game and fish are a valued part of our heritage that shall be forever preserved for the people and shall be managed by law and regulation for the public good. [Adopted, November 3, 1998]

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March 14, 2005



Honorable Mike Kelly
Honorable Jay Ramras
Alaska State Legislature
Juneau, AK 99811
By FAX 465-2070 to House Resources Committee

Dear Representatives Kelly and Ramras:

Thank you for introducing HB 75, Rep. Kelly, and for your support, Rep. Ramras.

I applaud your work draft proposal of 2/24/05 and committee substitute for HB 75. Promoting and preserving the various legal forms of hunting and trapping in Alaska is properly a function of the State, through the Department of Fish & Game (ADF&G) and the Board of Game.

When I have in the past urged the ADF&G to advocate hunting and trapping, I have been told that the Department of Law advised ADF&G not to, because there was no clear statutory direction to do so.

The importance of hunting and trapping to Alaskan values and lifestyles and to sound, scientific sustained yield management demands clear direction, to help ensure that the State is able to fulfill its constitutional responsibilities.

Your bill provides that direction. Thank you for introducing it and, in the proposed Committee Substitute, broadening its scope to include all hunting and trapping. I respectfully ask the Committee and the Legislature to pass this proposed Committee substitute for HB 75.

Please include my letter in the House Resources Committee record.

Sincerely,


Richard H. Bishop
President

cc: The Honorable Governor Frank Murkowski

The official State Association of the NRA

HB

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HB 76

here's the Audit on
the Board.

Pat Davidson is in
the audience, but
I doubt that there
are questions.

I HOPE NOT!

October 16, 2003

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
GUIDES AND TRANSPORTERS

October 16, 2003

Audit Control Number

08-30025-03

This audit report addresses the specific areas related to game guiding enforcement such as determining the implications the absence of a board has had on enforcement of current guiding statutes and regulations; assessing the sufficiency of current-level enforcement activity related to illegal guiding; and, presumably, game violations. In addition, we reviewed the permit and evaluation process used by the various federal agencies in their respective game management areas.

In our opinion, the public protection and consumer safety aspects of the current guide service statutes should be improved. The legislature should also consider reestablishing a guide/transporter service licensing board.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Titles 24 of the Alaska Statutes and a special request of the Legislative Audit and Budget Committee, we conducted a review of the licensing and/or permitting of guides and transporters by the Division of Occupational Licensing; Division of Mining, Land, and Water; federal agencies such as the National Park Service, National Wildlife Refuge, United States Forest Service; and, Bureau of Land Management.

Objectives

Our specific audit objectives were:

1. To determine the implications the absence of a board has had on enforcement of current guiding statutes and regulations.
2. To assess the sufficiency of current-level enforcement activity related to illegal guiding violations by both licensed and unlicensed guides.
3. To determine the purpose for transporter activity reports and if these reports are sufficiently comprehensive and timely to meet achieve the intended purpose.

Scope:

We focused our review on the permitting process by state and federal agencies during 2002 and 2003, hunt reports and transporter activity reports in 2002, and complaint case investigation from 1997 to 2003.

Methodology:

To accomplish the audit objectives, the following documents were reviewed:

- Applicable federal regulations and state guiding/transporter statutes and regulations
- Other states' guide-outfitter statutes and regulations
- Annual reports
- Licensing and investigation files for guides and transporters
- Professional hunter publications
- 2002 Sunset Review of the Colorado Office of Outfitters Registration

We also compared 1995 provisions of the former Big Game Commercial Services Board (BGCSB) statute and regulations with the currently active guide/transporter statutes and regulations.

We interviewed the following individuals:

- Members of the Alaska Professional Hunters Association
- Staff of the Division of Occupational Licensing, Department of Community and Economic Development
- Staff of the Division of Mining, Land and Water, Department of Natural Resources
- Staff of the Division of Fish and Wildlife Protection, Department of Public Safety
- Staff at the Department of Fish and Game
- Staff of the U.S. Forest Service, National Park Service, U.S Fish and Wildlife Service, and U.S. Department of the Interior's Bureau of Land Management

Additionally, we conducted a survey of guide and transporter clients. Our survey sought responses to issues such as consumer protection, safety, fair guide practices, and overall hunt experiences.

ORGANIZATION AND FUNCTION

The Big Game Commercial Services Board (BGCSB) was allowed to sunset on June 30, 1994. Under AS 08.03.020, the board continued in existence until June 30, 1995 in order to conclude its administrative operations. Chapter 33, Section 3, SLA 1996 transferred the board's regulatory responsibility for guides and transporters to the Department of Commerce and Economic Development (DCED).¹ Guides and transporters are regulated by the department through the Division of Occupational Licensing (OccLic).

A licensing examiner at OccLic is assigned the function of administering and grading the guide and game management unit examinations, issuing initial and renewal licenses for all classes of guides and transporters, reviewing hunt and transporter activity reports from guide and transporter licensees, and referring violations to the investigation section.

An investigator at OccLic is assigned to conduct investigations of complaints received from guide and transporter clients, other guides and transporters, the licensing examiner, and other state or federal agencies. Investigations resulting in accusations² are sent to the Attorney General's office for review and acceptance. The accusation is then filed and sent to the respondent³ who may request a hearing or default by not responding.

Duties of DCED

DCED's statutory responsibilities include:

1. Preparing, grading, and administering a qualification examination for a registered guide license and a certification examination for each game management units where registered guides intend to provide big game hunting services.
2. Issuing registered guide, master guide, class-A assistant guide, assistant guide, and transporter licenses.
3. Compiling, maintaining, and publishing an annual roster of registered guides and master guides licensed.
4. Impose appropriate disciplinary actions on a guide and transporter licensee.

¹ The department was renamed Department of Community and Economic Development in 1999.

² According to *Black's law dictionary, Centennial Edition (1891- 1991)*, an accusation is defined as "A formal charge against a person, to the effect that he is guilty of a punishable offense, laid before a court or magistrate having jurisdiction to inquire into the alleged crime."

³ According to *Black's law dictionary, Centennial Edition (1891- 1991)* a respondent is "In appellate practice, the party who contends against an appeal or the party against whom the appeal is taken."

5. Requiring that an applicant seeking issuance or renewal of any class of guide or transporter licenses provide a signed statement declaring whether his right to obtain a hunting, guiding, outfitting, or transporting license has been revoked in Alaska or any other state and Canada.
6. Regularly disseminating information regarding examinations and other qualifications for all classes of guide licenses to the residents of the rural areas of the state.
7. Adopting procedural and substantive regulations.
8. Administering examinations for registered guides at least twice a year.

BACKGROUND INFORMATION

Alaska Statutes 16.05.407 and .408 require nonresident U.S. citizens and nonresident foreign nationals to be accompanied by a licensed guide when hunting specified species of big game in Alaska.⁴ To hunt brown bear, grizzly bear, mountain goat or sheep in Alaska, nonresident U.S. citizens must obtain services of a guide unless they are accompanied by a state resident over 19 years of age who is within the "*second degree of kindred.*"⁵ In addition to game listed for nonresident U.S. citizens, hunters who are foreign nationals must be accompanied by a licensed guide to hunt black bear, bison, caribou, deer, elk, moose, musk ox, wolf,⁶ or wolverine.

In 1973, the Legislature established the Guide Licensing and Control Board

In 1973, the legislature created the Guide Licensing and Control Board (GLCB).⁷ The board was responsible for establishing guidelines for different classes of guide licenses, defining unlawful acts, and providing for the disciplining of guides. The board also had the authority to regulate guide activities through the adoption of regulations.

The prime sponsor of the legislation testified that the purpose of the board was to better manage the state's fish and game, in addition to seek out competent guides for licensure. The board of seven was to be made up of "*no more than three*" individuals who were guides and the remaining four members were to have "*general knowledge of the game resources of the state.*" All members were required to have "*a minimum of 10 years residence in the state.*"

In 1976, the Legislature authorized establishment of Exclusive Guide Areas

In 1976, the legislature authorized the establishment of exclusive guide areas (EGAs).⁸ Under the authority of the new law, GLCB adopted regulations to establish a more uniform and consistent criteria for awarding EGAs that included a point system based on demonstrated prior hunting or guiding experience in a given region or area.

⁴ Licensed Guide refers to all licensing categories: a registered guide, master guide, class A assistant guide, and assistant guides. Class A assistants and assistant guides are typically employed by a registered or master guide.

⁵ According to an Alaska Department of Fish and Game hunter information publication, a second-degree of kindred means in relation to the hunter. The other individual may be: father, mother, brother, sister, son, daughter, spouse, grandparent, grandchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, stepfather, stepmother, stepsister, stepbrother, stepson, or stepdaughter.

⁶ A guide is not required for hunting wolves in Game Management Units 13, 19, and 20.

⁷ Chapter 17, SLA 1973

⁸ Chapter 133, SLA 1976

Under the EGA system, licensed guides were given exclusive rights to conduct commercial hunts within a designated geographic area. Assignment of EGAs was done after the board evaluated criteria such as occupancy, historical use, and financial value of the guide's infrastructure in an area.

After nine years of litigation, the Alaska Supreme Court declared EGAs unconstitutional

In April 1979, a licensed guide and lodge owner named Owsichuk filed a lawsuit in Superior Court challenging the constitutionality of EGAs. Owsichuk sought authorization from GLCB to guide clients in a specific region and had been denied permission because another guide had exclusive rights to guide in that same area of the state.

In October 1988, the state Supreme Court issued a decision that the statute and related regulations establishing EGAs were unconstitutional. The court determined that EGAs were contrary to the "common use clause" provision of the Alaska Constitution since they provided big game guides the exclusive use of state resources in perpetuity.

EGAs had been granted to big game guides based on a seniority system. Big game guides were not required to pay any fees to the state for the EGAs nor were they restricted as to how long they could use the area. GLCB allowed guides to transfer or sell EGAs to other guides for a profit as though it were private property in which the state had no interest.

Justice Rabinowitz, in writing for the unanimous court, found this aspect of EGAs of particular concern. He stated in the court's opinion:

Nothing in this opinion is intended to suggest that leases and exclusive concessions on state lands are unconstitutional. The statutes and regulations of the Department of Natural Resources authorize leases and concession contracts of limited duration, subject to competitive bidding procedures and valuable consideration. ... In contrast, EGAs are not subject to competitive bidding, provide no remuneration to the state, are of unlimited duration, and are not subject to any other contractual terms or restrictions. Rather, ... they are granted essentially on the basis of seniority, with no rental or usage fee, for unlimited duration, and are administered in such a way that guides may transfer them for a profit as if they owned them. In these respects the EGAs resemble the type of royal grants the common use clause [of the state constitution] expressly intended to prohibit. Leases and concession contracts do not share these characteristics. [emphasis added]

Even before the Owsichuk decision was issued, the legislature had begun to reconsider public policy related to the guiding industry. In May 1988, the legislature established the Interim Task Force on Guiding and Game. The central objective of the task force was to examine the various problems and issues surrounding the commercial taking of big game in the state. The task force was also directed to evaluate how to deal with the businesses or professions that provided goods and services to big game hunters in the state.

At this time, GLCB was dealing with problems such as:

1. the best way to regulate air taxi operators who were operating very much like guides – calling themselves “outfitters;”
2. complaints from the general public that the current system of licensing guides or obtaining an EGA required an individual to “have the right connections” rather than necessarily being qualified to operate in a given area; and,
3. problems the Division of Fish and Wildlife Protection was having in enforcing guiding laws, due to the vague way in which they were written. The enforcement problems were due in large part to the difficulty in defining what constituted unlicensed guiding activity.

The legislative task force was given the responsibility to examine these problems and develop a proposed alternative regulatory approach. The task force recommended a new regulatory game board should be established with expanded regulatory authority over guide-outfitters (the new term for guides) and a newly designated licensing group – transporters.

Creation of the Big Game Commercial Services Board and the licensing of transporters

In 1989, the legislature established a new board with expanded authority in the wake of the Owsichuk decision and other changes taking place in the guiding industry. The new board was named the Big Game Commercial Services Board (BGCSB). The name change reflected the expanded scope of the board’s authority which, in addition to licensing guides and their assistants, now also licensed individuals who provided transportation services to hunters.

New legislation allowed for the establishment of guide use areas (GUAs)⁹ which would permit certain license holders to guide in designated geographic areas within the state’s 26 Game Management Units (GMU). GUAs would be assigned to guide-outfitters on a nonexclusive merit basis, replacing the unconstitutional EGA system.

The BGCSB legislation also restricted the commercial use of the term “outfitter” only to licensed guides, resulting in a new statutory title of guide-outfitter. This was done to reduce confusion over what services a consumer could expect when contracting for a big game hunt in Alaska. The term outfitter was used in most other licensing jurisdictions for an individual who performed services similar to those provided by guides in Alaska. Previously, some individuals who were not licensed guides, but were operating as unlicensed transporters, had begun using the term outfitter in their advertising.

Like its GLCB predecessor, BGCSB was organizationally placed under the auspices of the Division of Occupational Licensing in the Department of Commerce and Economic

⁹ GUAs, currently used, were developed by the Alaska Department of Fish and Game at the request of the Legislative Task Force on Guiding and Game.

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 regimen 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 a. 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 Owsichek 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.

Exhibit 2

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 Committee 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 BGCSB 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: (1) 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 unregistered master guides who are the only ones with authority to contract for guided hunts.

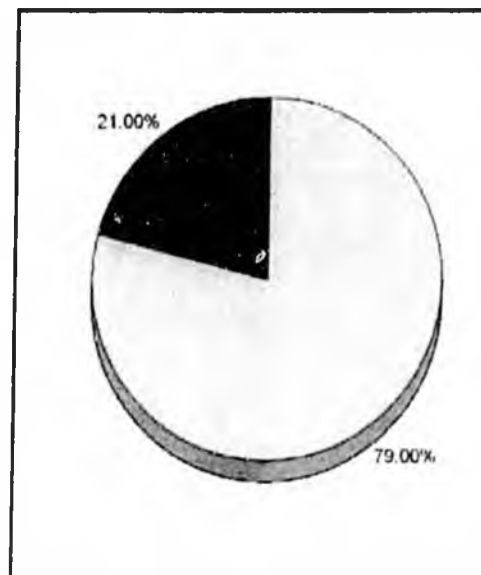
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Appendix A

Department of Community and Economic Development Guide Clients – Survey Results

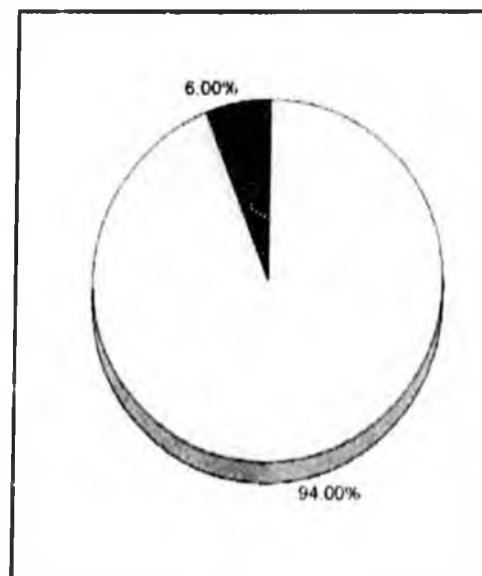
Question No. 1 – Did you have a written contract with the guide?

| 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 animal 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 ½ 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.*

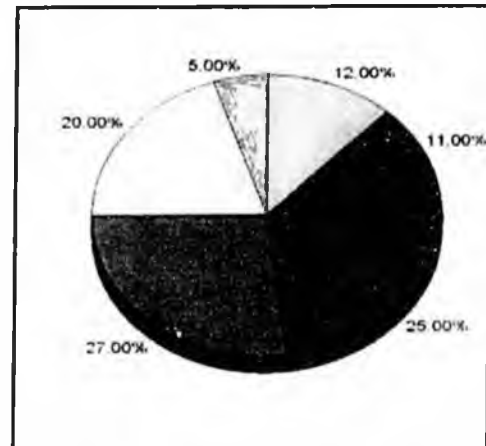
¹ DOI. Investigator called client in February 2003 and indicated that he would interview the guide in March but did n't think he could do anything.

Appendix A

Department of Community and Economic Development Guide Clients – Survey Results

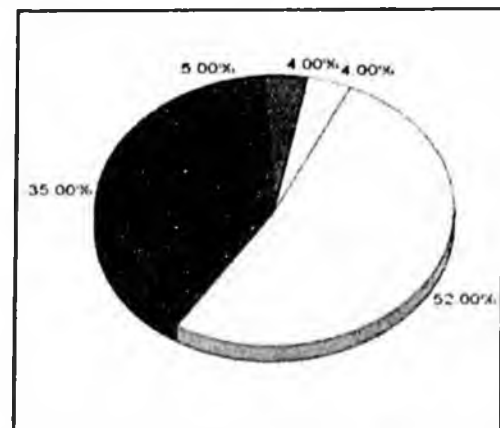
Question No. 4 – How much did you pay your guide for your hunt?

| 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?

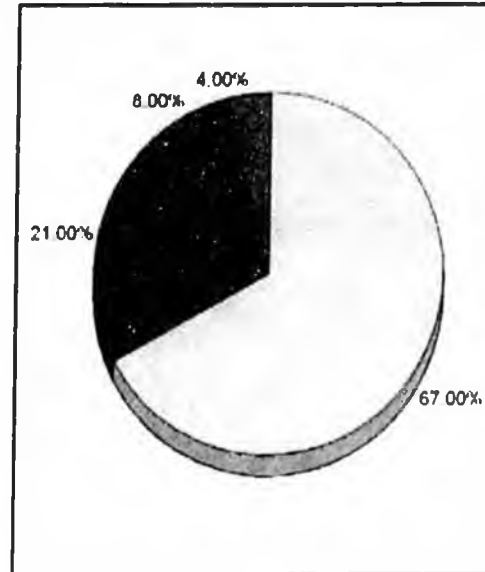
| Responses | Number | Percent |
|-----------------------|--------|---------|
| Do not know | 73 | 42.94% |
| Other State Owned | 25 | 14.71% |
| Alaska Native Owned | 18 | 10.59% |
| Nat'l Wildlife Refuge | 15 | 8.82% |
| Nat'l Park Service | 10 | 5.88% |
| Other Federal Land | 10 | 5.88% |
| U.S. Forest 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.

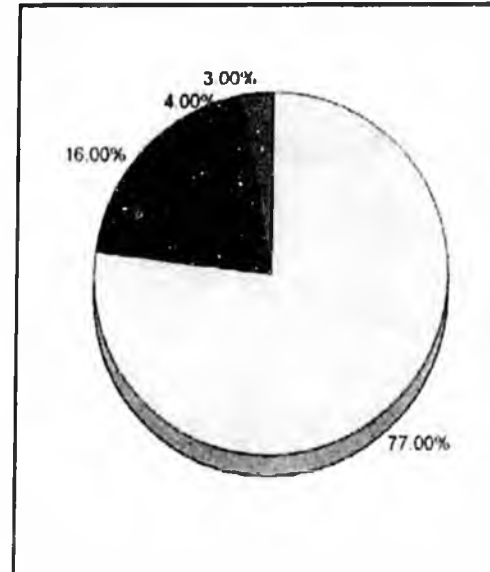
| Responses | Number | Percent |
|---|--------|---------|
| Unsuccessful Hunt | 12 | 22.0% |
| Lack of game animals in the area | 11 | 20.0% |
| Bad weather | 6 | 11.0% |
| Other | 6 | 11.0% |
| Incompetent guides and/or assistant guides | 5 | 9.0% |
| Poor camp conditions (inadequate shelter, poor or 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

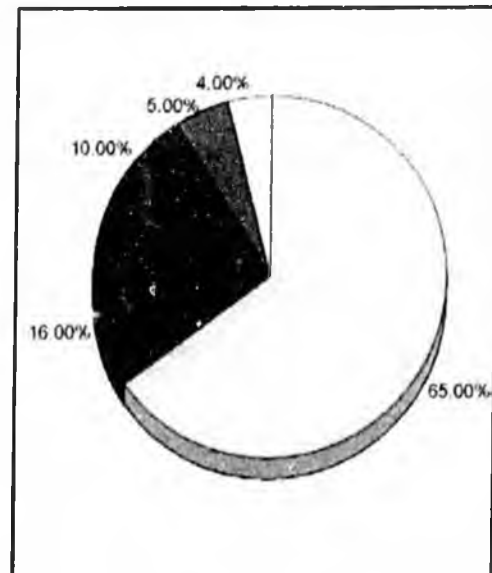
Question No. 9 – Based on your experience with this guided hunt, how likely would you return in the future to hunt big game in Alaska with a guide?

| 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

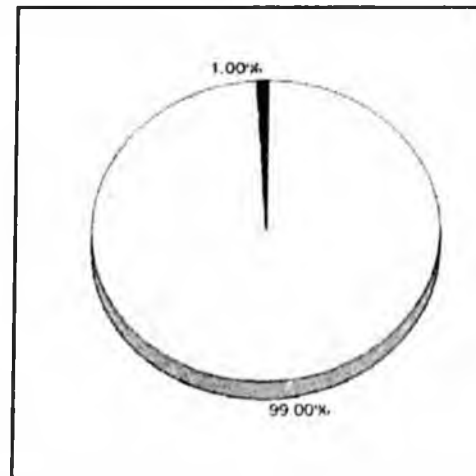
Department of Community and Economic Development
Guide Clients – Survey Results

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% |

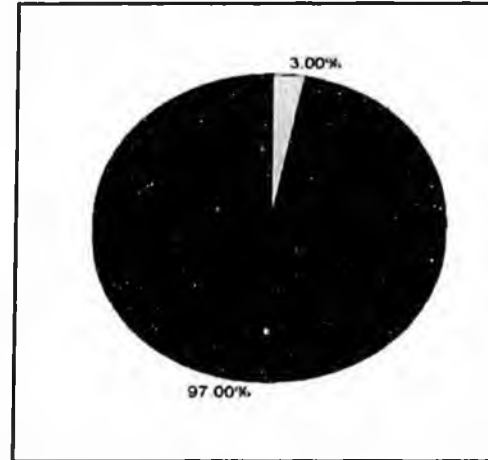


Appendix A

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.

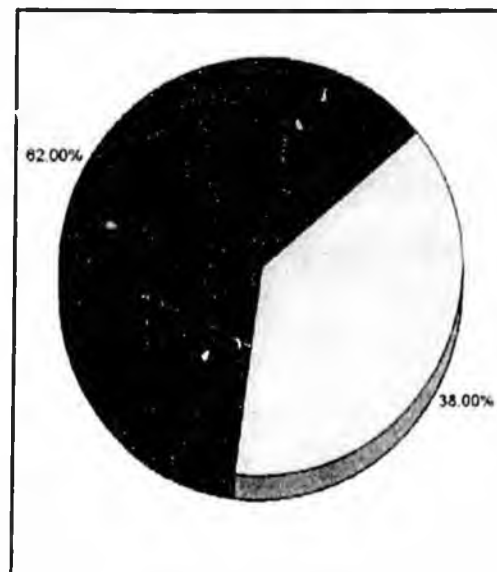
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Appendix B

Department of Community and Economic Development Transporter Client – Survey Results

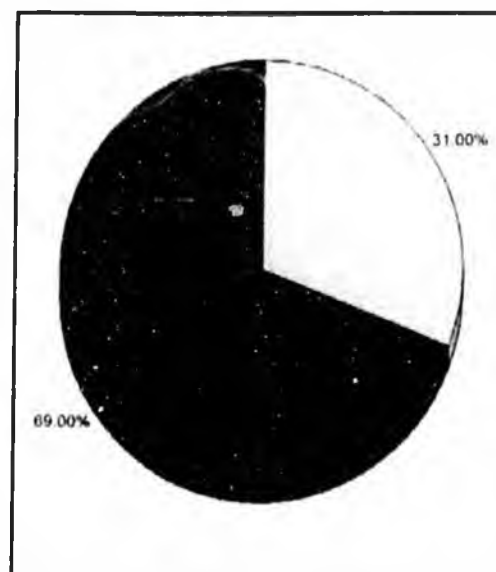
Question No. 1 – Did you have a written contract with the transporter?

| 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% |

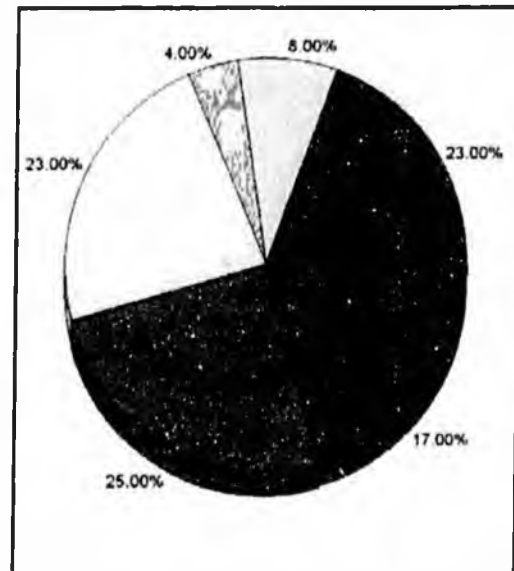


Appendix B

Department of Community and Economic Development
Transporter Client – Survey Results

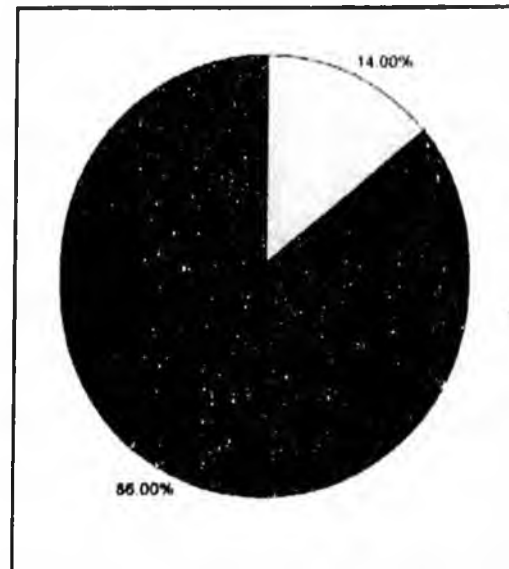
Question No. 3 – How much did you pay the transporter for all transportation, and if applicable, accommodations in the hunt area?

| 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% |

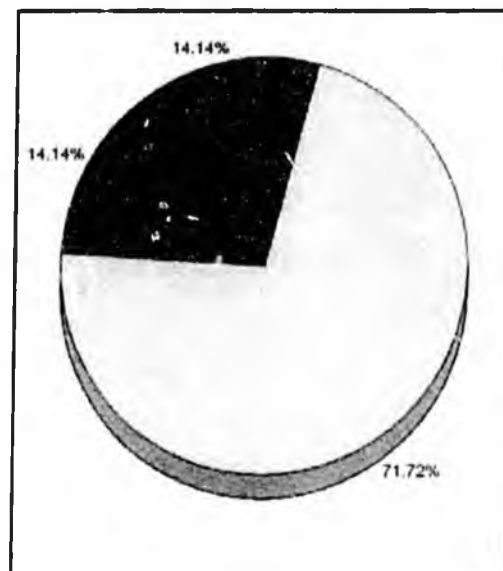


Appendix B

Department of Community and Economic Development Transporter Client – Survey Results

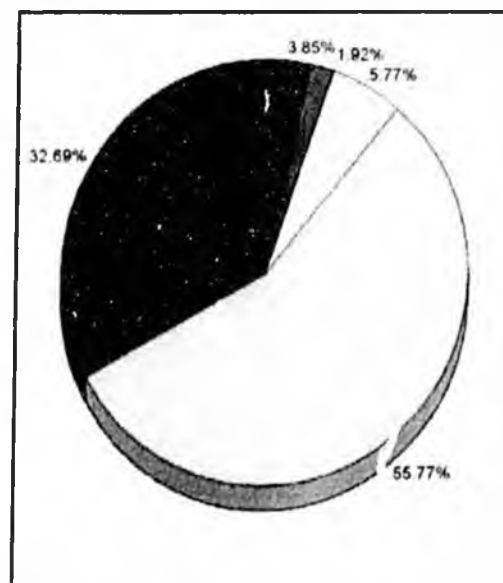
Question No. 5 – If transportation was part of the guided hunt contract, how much did you pay the guide for the hunt?

| 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

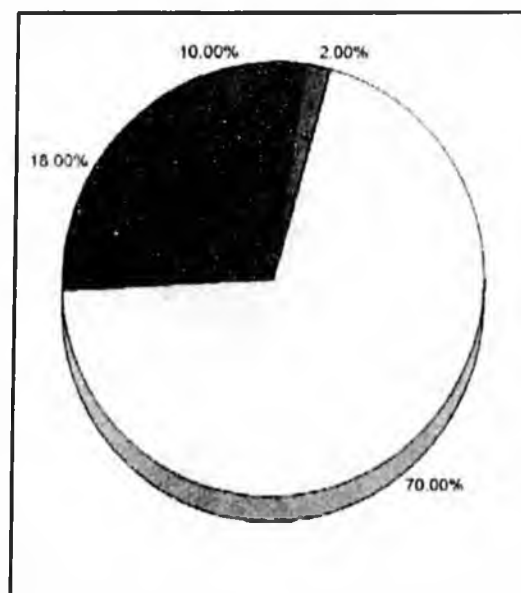
Department of Community and Economic Development Transporter Client – Survey Results

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% |



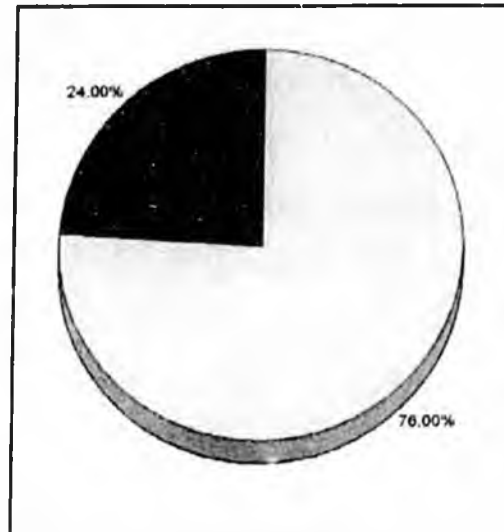
Some of the reasons identified for those who indicated less than satisfactory hunt or transporter experience were: lack of game animals, too many other hunters, bad weather, or wrong location.

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 game 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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STATE OF ALASKA

FRANK H. MURKOWSKI
GOVERNOR

DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

P.O. BOX 25526
JUNEAU, AK 99802-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

November 7, 2003

Pat Davidson, Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Mr. Davidson:

Thank you for the opportunity to review the preliminary audit report on Occupational Licensing and Oversight of Alaska Big Game Guides and Transporters. Your report is accurate, thorough, and well-written. The Department of Fish and Game agrees with the recommendation that the legislature consider reestablishment of a guide/transporter services licensing board (Guide Board). Creation of a Guide Board with authority to regulate guide/transporter activities would improve wildlife management, benefit hunters, and bolster the economy of the state.

The Guide Board should have the authority to determine how many hunters a transporter can drop off in an area. The Guide Board and the Board of Game would work cooperatively to insure that Alaskan wildlife are harvested at the appropriate level to safeguard sustained yield, and that hunters can enjoy a high quality hunting experience without unnecessary crowding.

The Big Game Commercial Services Board, before it ceased to exist, did an excellent job of monitoring the ethical behavior and business practices of guides. A new Guide Board could fill that same role. It is important that hunters hiring the services of a guide have confidence that their guide meets high standards of conduct.

Each year, about 11,000 non-residents hunt in Alaska, and about two-thirds hire a guide. Their activities generate over \$100 million dollars to the Alaska economy, provide about 800 year-round jobs and many more seasonal jobs. I believe that establishing a Guide Board will help insure the long-term viability of the guiding industry in Alaska.

Sincerely yours,

Wayne Regelin
Deputy Commissioner

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Senate Resources

March 7, 2005

HB 76 Packet – materials

#1.....

- Sponsor Statement – 1 page
- Background information – 1 page
- Sectional Analysis – 5 pages

#2.....

- Bill - 28 pages
- #1 Fiscal Note F&G - 1 page
- #2 Fiscal Note Public Safety – 1 page
- #3 Fiscal Note CCED: Occ Lic 2/04/05 – 1 page
- #4 Fiscal Note DNR - 1 page
- #5 Fiscal Note CCED: Occ Lic 2/10/05 – 1 page

#3.....

- 2003 Audit Report – 44 pages



Representative Ralph Samuels

House District 29

HB 76

Sponsor Statement

“An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services; and providing for an effective date.”

This bill would re-establish the Big Game Commercial Services Board to oversee an important industry that exists largely on the basis of a healthy wildlife population. The board was allowed to sunset a decade ago, and in the following years, professional hunters, wildlife biologists, public and private land managers and the hunting public themselves have discovered the problems associated with a decentralized, uncoordinated system of licensing and regulating guides and transporters.

An audit commissioned by the 23rd Alaska Legislature and released in December, 2003, recommends the legislature consider re-establishing the board. Auditors concluded after extensive interviews with affected agencies, land owners and hunters that wildlife populations would benefit from more coordinated enforcement of existing laws, and that consumer protection and hunter-client safety could be improved. The Alaska Board of Game has also asked repeatedly that a guide licensing board be re-established.

This bill would create a nine-member board within the Department of Community and Economic Development. Two members would represent active registered guide-outfitters, two members would be licensed transporters, one member would be assigned by the Board of Game, two members would represent private landholders, and two members would represent the public. The bill also increases from \$1,000 to \$5,000 the maximum civil penalty for disciplinary purposes.



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, two representing private landholders, and two members 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,
- The Board must grant a license to someone who has satisfied the statutory requirements for a license.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 3, 2005

SUBJECT: Sectional Summary of CSHB 76(FIN) am; An Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services
(Work Order No. 24-LS0332\F.A)

TO: Representative Ralph Samuels
Attn: Henry Webb

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of CSHB 76(FIN) am; an Act relating to the Big Game Commercial Services Board and to the regulation of big game hunting services and transportation services.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Throughout the bill wherever the term "registered guide" or "master guide" is used in statute it is replaced by "registered guide-outfitter" and "master guide-outfitter," respectively.

Section 1 of the bill amends AS 08.01.010(7) to provide that the centralized licensing provisions of AS 08.01 apply to the Big Game Commercial Services Board that is created in sec. 3 of the bill.

Section 2 of the bill sets out the sunset date of the Big Game Commercial Services Board as June 30, 2008.

Section 3 of the bill adds new sections to AS 08.54 to create the Big Game Commercial Services Board, to set out the qualifications of the nine members of the board, and to provide that the board is to receive assistance, information, and data from state agencies.

Section 4 of the bill amends AS 08.54.600 to provide for the transfer of responsibility for licensing and regulation of big game commercial services from the Department of Community and Economic Development to the Big Game Commercial Services Board and to eliminate the roster of registered guides and amend provisions relating to examinations for registered guide-outfitters.

Representative Ralph Samuels

March 3, 2005

Page 2

Section 5 of the bill amends AS 08.54.600 by adding a new subsection authorizing the Big Game Commercial Services Board to adopt regulations regarding professional codes of ethics, written contracts with clients of registered guide-outfitters and transporters, and inspections of contracts by the Department of Community and Economic Development.

Section 6 of the bill amends AS 08.54.605(a) to amend provisions regarding eligibility for guide and transporter licenses if a person has been convicted of violating certain statutes or regulations and to insert the terms "registered guide-outfitter" and "master guide-outfitter" in lieu of "registered guide" or "master guide," respectively.

Section 7 of the bill amends AS 08.54.605(c) to insert the terms "registered guide-outfitter" and "master guide-outfitter" in lieu of "registered guide" and "master guide," respectively.

Section 8 of the bill amends AS 08.54.610 to require that applicants for a registered guide-outfitter license have recent big game hunting experience, to provide for the transfer of responsibility for licensing and regulation of registered guides from the Department of Community and Economic Development to the Big Game Commercial Services Board and to replace the terms "registered guide" and "master guide" with "registered guide-outfitter" and "master guide-outfitter," respectively.

Section 9 of the bill amends AS 08.54.620 to provide for the transfer of responsibility for licensing and regulation of class-A assistant guides from the Department of Community and Economic Development to the Big Game Commercial Services Board, to amend the requirements for a class-A assistant guide license, and to replace the terms "registered guide" and "master guide" with "registered guide-outfitter" and "master guide-outfitter," respectively.

Section 10 of the bill amends AS 08.54.630 to provide for the transfer of responsibility for licensing and regulation of assistant guides from the Department of Community and Economic Development to the Big Game Commercial Services Board, to amend the requirements for an assistant guide license, and to replace the term "registered guide" with "registered guide-outfitter."

Section 11 of the bill amends AS 08.54.640(a) to replace the term "registered guide" with "registered guide-outfitter."

Section 12 of the bill amends AS 08.54.640(b) to transfer authority from the Department of Community and Economic Development to the Big Game Commercial Services Board to adopt regulations regarding the suspension of guide licenses held by persons who are or become law enforcement officers and to replace the term "registered guide" with "registered guide-outfitter."

Section 13 of the bill amends AS 08.54.650(c) to provide that the Big Game Commercial Services Board may specify the information to be supplied in transporter activity reports.

Representative Ralph Samuels

March 3, 2005

Page 3

Section 14 of the bill amends AS 08.54.660 to provide that registered guide-outfitters and transporters must sign an affidavit that all required reports have been submitted to the Department of Community and Economic Development before their licenses can be renewed and to replace the term "registered guide" with "registered guide-outfitter."

Sections 15 and 16 of the bill amend AS 08.54.670 and 08.54.680(b), respectively, to replace the term "registered guide" with "registered guide-outfitter."

Section 17 of the bill amends AS 08.54.680 by adding a new subsection (c) to provide that on or after January 1, 2006, registered guides and transporters must have a written contract with clients before providing services to those clients.

Sections 18 and 19 of the bill amend AS 08.54.710(a) and (b), respectively, to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54 and to amend the list of acts for which the board may impose disciplinary sanctions.

Section 20 of the bill amends AS 08.54.710(c) to raise the maximum civil fine that can be imposed by the Big Game Commercial Services Board from \$1,000 to \$5,000 and to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Section 21 of the bill amends AS 08.54.710(d) to provide that the Big Game Commercial Services Board is responsible for imposing certain disciplinary sanctions upon persons licensed under AS 08.54.

Sections 22, 23, and 24 of the bill amend AS 08.54.710(e), (h), and (i), respectively, to provide that the Big Game Commercial Services Board is responsible for imposing disciplinary sanctions upon persons licensed under AS 08.54.

Section 25 of the bill amends AS 08.54.720(a) to provide that it is unlawful for a person licensed under AS 08.54 to commit or aid in the commission of a violation of a state or federal wildlife or game, guiding, or transportation services statute, to fail to report a violation of a state or federal wildlife or game, guiding, or transportation services statute by a client or employee within 20 days after the violation, to fail to have a valid Alaska hunting license in possession when guiding, or to remain on state, federal or private land without prior approval. Also, the term "registered guide" is replaced with "registered guide-outfitter" in several places.

Section 26 of the bill amends AS 08.54.720(i) to provide that the Big Game Commercial Services Board is responsible for suspending guide licenses and transporter licenses when ordered by a court.

Section 27 of the bill amends AS 08.54.730 to provide that the Big Game Commercial Services Board may obtain an injunction to halt certain violations of AS 08.54.

Representative Ralph Samuels

March 3, 2005

Page 4

Section 28 of the bill amends AS 08.54.740 to provide that a registered guide-outfitter or transporter is equally responsible for violations of federal wildlife laws by their employees and to replace the term "registered guide" with "registered guide-outfitter."

Section 29 of the bill amends AS 08.54.750 to prohibit registered guide-outfitters from withdrawing or amending a use area registration during a calendar year, to allow the Big Game Commercial Services Board to amend the boundaries of use areas, and to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and with the transfer of authority from the Department of Community and Economic Development to the Big Game Commercial Services Board.

Section 30 of the bill adds new subsections to AS 08.54.750 to provide that registered guide-outfitters may register for additional use areas to guide hunts for certain big game predator species under certain conditions and that transporters may be required to provide advance notice to the Department of Community and Economic Development before providing transportation services in a use area.

Section 31 of the bill amends AS 08.54.760 to provide that the Department of Community and Economic Development may make hunt records and activity reports available to federal and other law enforcement agencies and to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and with the transfer of authority from the Department of Community and Economic Development to the Big Game Commercial Services Board.

Section 32 of the bill amends AS 08.54.760 by adding a new subsection to provide that forms, records, and reports required under AS 08.54 may be distributed, received, and stored electronically.

Section 33 of the bill amends AS 08.54.770 to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and to clarify that the Department of Fish and Game is responsible for issuing hunting licenses.

Section 34 of the bill amends AS 08.54.790 to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter" and to add a definition of "board."

Sections 35 - 39 amend AS 16.05.407(a), 16.05.407(f), 16.05.408(a), 16.05.408(c), and AS 23.10.055, respectively, to make technical changes necessary to conform to the replacement of the term "registered guide" with "registered guide-outfitter."

Section 40 of the bill amends AS 39.50.200(b) by adding the Big Game Commercial Services Board to the list of boards and commissions whose members are subject to public officers financial disclosure.

Representative Ralph Samuels
March 3, 2005
Page 5

Section 41 of the bill amends AS 41.23.420(d) by substituting the Big Game Commercial Services Board for a reference to the Department of Community and Economic Development.

Section 42 of the bill amends AS 44.62.330(a)(21) by substituting the Big Game Commercial Services Board for a reference to the Department of Community and Economic Development in the list of agencies that are subject to the administrative adjudication provisions of the Administrative Procedure Act.

Section 43 of the bill provides for the initial appointment of the members of the Big Game Commercial Services Board.

Section 44 of the bill provides for the issuance of registered guide-outfitter licenses and master guide-outfitter licenses to persons who currently hold registered guide licenses and master guide licenses.

Section 45 of the bill is the Saving Clause.

Section 46 of the bill provides that secs. 3, 17, and 43 - 45 of the bill take effect immediately.

Section 47 of the bill provides that the remaining provisions of the bill take effect on the day that the Big Game Commercial Services Board holds its first meeting.

If I may be of further assistance, please advise.

GU:med
05-141.mcd

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 76
 (H) Publish Date: 2/4/05

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 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 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: 2
 Bill Version: HB 76
 (H) Publish Date: 2/4/05

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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| 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: 3
 Bill Version: HB 76
 (H) Publish Date: 2/4/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Big Game RDU Occupational Licensing (117)
Commercial Services Board Component Occupational Licensing
 Sponsor Samuels, Joule
 Requester House Resources 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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| CHANGE IN REVENUES (1156) | 30.0 | 30.0 | 30.0 | 30.0 | 30.0 | 30.0 |
|------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|

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 Phone (907) 465-2144
 Division Occupational Licensing Date/Time 2/2/05 11:26 AM
 Approved by Edgar Blatchford Date 2/2/2005
 Agency Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 76(FIN)
 (H) Publish Date: 2/11/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: Big Game Services and Commercial RDU: Resource Development
Services Board Component: Claims, Permits & Leases
 Sponsor: Rep. Samuels
 Requester: (H) FIN Component No. 2460

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: 00

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)

There is no anticipated fiscal impact associated with implementation of this legislation.

Prepared by: Bob Loeffler, Director Phone: 907-269-8625
 Division: Mining, Land & Water Date/Time: 2/9/2005
 Approved by: Tom Irwin, Commissioner Date: 2/9/2005
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSHB 76(FIN)
(H) Publish Date: 2/11/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title: Big Game RDU: Occupational Licensing (117)
Commercial Services Board Component: Occupational Licensing
Sponsor: Samuels, Joule
Requester: House Finance 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 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| CHANGE IN REVENUES (1156) | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |
|------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|-----------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| 1156 - Receipt Supported Services | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |
| TOTAL | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |

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 nine members who will assume responsibility for licensing and examinations. The assumptions in this fiscal note are based on expenses for nine members and one staff person to meet two times each year (10 people x 2 meetings), and assuming travel and per diem costs will average \$1.0 per person for each meeting (\$10.0 x 2 = \$20.0). 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 \$20.0 will be funded by licensing fees.

Prepared by: Jennifer Strickler, Administrative Manager Phone: (907) 465-2144
Division: Occupational Licensing Date/Time: 2/10/05 3:58 PM
Approved by: Edgar Blatchford, Commissioner Date: 2/10/2005
Agency: Commerce, Community, and Economic Development

March 18, 2003

Senate President Gene Theriault
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

House Speaker Pete Kott
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Senator Theriault and Speaker Kott:

The Board of Game met in Anchorage from March 6 - March 15, 2003. One of the miscellaneous topics discussed in detail was the necessity for the reestablishment of a Big Game Commercial Services Board. The Board would once again like to request that this issue be seriously considered by the Legislature.

The Board of Game and the Department of Fish and Game are responsible for managing Alaska's varied wildlife resources. While the Department has the responsibility for implementation of the state's management programs, the Board has the responsibility for establishing hunting and trapping regulations in concert with the dictates of the Constitution and the statutes. We are also 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.

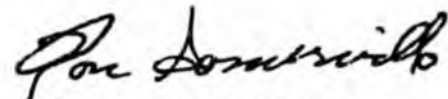
Unregulated guiding operations and uncontrolled access by transporters to the remote areas of our state have created significant and unnecessary conflicts. Congestion, wanton waste, complaints from clients, safety concerns and major conflicts with local hunters has created a climate of hostility in some 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 Commercial Services Board.

With the complexities surrounding wildlife management in Alaska today, it only makes sense to exercise some regulatory control over all substantial commercial and non-commercial activities that create serious user conflicts and contribute to growing management problems. In addition, the maintenance of both healthy and well-regulated guide and transporter industries are important to the state.

Thank you for considering this recommendation from the Board of Game.

Sincerely,



Ron Somerville, Vice Chair
Board of Game

cc: Senator Scott Ogan
Representative Bud Fata
Acting Commissioner Kevin Duffy

HB

107

SENATE RESOURCES PACKET

JAN. 23, 2006

HB 107 Packet – Sponsor Materials

- Cover Sheet _____ 1 page
- Sponsor Statement (undated) _____ 1 page
- Changes made to statutes _____ 1 page
- Current Bill (version D) _____ 2 pages
- New Fiscal Notes (will be handed out at meeting)
- Statutes: 16.05.790 _____ 1 page
- Rule 82 – Attorney's Fees _____ 2 pages
- Rule 508 – Costs _____ 2 pages
- Supporting Documents
 - NRA Letter dated 2-17-05 _____ 1 page
 - AOC letter (undated) _____ 1 page
- Total Pages _____ 12 pages

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

Sponsor Statement

CS for HB 107(FIN)

Committee Substitute for House Bill 107 (FIN) is a 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 reasonable actual attorney's fees and costs. CSHB 107 will allow the judge to grant full costs and reasonable and actual attorney fees.

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 having to pay because of interference, obstruction, or hindrance of their most basic rights. CSHB 107 will allow an opportunity for the prevailing party to recoup the actual costs associated with hindering an Alaskan Wildlife Experience.

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

Changes to AS 16.05.790 & .791

Change 1 (Page 2, Line 4&5)

Physically interfering or tampering language has been added to give law enforcement authority to charge an individual who has cut a trap line, destroyed nets or fish pots etc. to be actually charged with the crime. Currently the charges are filed under criminal mischief.

Change 2 (Page 2, Line 14 & 15)

This language exempts a law enforcement officer while performing their duties. The state was forced recently to settle a case involving a fish and wildlife protection helicopter that allegedly caused all of the fish to jump out of a net.

Change 3 (page 2, Line 20-22)

This language is the actual intent of the bill to allow people to recover reasonable actual attorney fees. There is an exemption for commercial fishing as limited openings often result in potential perceived violations.

Sec. 16.05.790. Obstruction or hindrance of lawful hunting, fishing, trapping, or viewing of fish or game.

Statute text

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

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

(A) behavior of the fish or game that another person is attempting to take or view; or

(B) feasibility of taking or viewing fish or game by another person; or

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

(b) For purposes of (a) of this section, "lawful" means

(1) in compliance with

(A) this title, regulations adopted under this title, or applicable federal statutes and regulations;

(B) the Marine Mammal Protection Act (P.L. 92-572) or the Endangered Species Act (P.L. 93-205); or

(C) federal regulations adopted under 16 U.S.C. 3111 - 3126 relating to subsistence hunting, fishing, or trapping on federal land; and

(2) with the permission of the private landowner if the hunting, fishing, trapping, or viewing of fish or game occurs on private land.

(c) Notwithstanding AS 12.25, only a peace officer may arrest a person for violating this section. A peace officer who has probable cause to believe that a person has violated this section may arrest or cite the person or order the person to desist.

(d) In a prosecution under this section, it is an affirmative defense that the person was lawfully entitled to obstruct or hinder the hunting, fishing, trapping, or viewing of fish or game.

(e) This section does not apply to

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

(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.

(f) A person who violates this section is guilty of a misdemeanor and is punishable by a fine of not more than \$500 or imprisonment for not more than 30 days, or both.

History

(§ 1 ch 47 SLA 1991)

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.



NATIONAL RIFLE ASSOCIATION OF AMERICA

INCORPORATED 1871

**11250 WAPLES MILL ROAD
FAIRFAX, VA 22030**

February 17, 2005

The Honorable Jay Ramras
Alaska State House of Representatives
Alaska State Capitol
Juneau, AK 99801

Dear Representative Ramras:

I would like to commend you on having the foresight and courage to introduce legislation designed to preserve the rights of Alaska's outdoormen and women. HB 107, "An Act relating to the unlawful obstruction or hindrance of hunting, fishing, trapping or viewing of fish or game is a significant step in the right direction to protect law abiding citizens.

As you may be aware, I have been intricately involved in the rights of Alaska's outdoor community for well over 25 years. Over that time period I have found the environmental/animal rights activists are the most relentless crusaders against our traditional values and way of life. They are in fact "true believers" who care little or nothing for the rights of others, and are especially disdainful of others personal values and viewpoints.

Since the days when Alaskans battled unsuccessfully with "outside interests" over D-2, the environmental community has not wavered from its consistent effort to erode or eliminate such traditional Alaskan activities like hunting and trapping. Although millions of acres were set aside in ANILCA for their sole benefit, it was not enough. To this day they continue in their crusade to shut down more areas, and are becoming bolder in their rhetoric and actions against those of us who choose to live a more natural lifestyle.

HB 107 will go a long way toward preventing the kind of unlawful activities groups like PETA and HSUS encourage their members to take against hunters and other outdoor users. Although hunters have never attempted to pass rules or regulations coercing non-hunters to participate in their activities, or keep them from pursuing activities of their choice, the anti-hunting community has continually supported actions to eliminate hunting and trapping. Tools like those provided in HB 107 are an unfortunate, but necessary remedy to protect the rights of Alaskans who continue to live with a strong connection to the land.

Once again, thank you for introducing such an important piece of legislation. If there is anything I can do to assist you in this endeavor, please don't hesitate to let me know.

Sincerely,

Eddie Grasser
NRA Field Rep.

Alaska Outdoor Council Testimony today:

Thank you Mr. Chairman and members of the committee,

My name is Jennifer Yuhas. I am the Executive Director of the Alaska Outdoor Council.

On behalf of the AOC Board of Directors representing over 54 Member Clubs and a collective membership of over 12,000 I would like to express support for HB 107 and thank Representative Ramras for sponsoring this legislation.

Current statute does not guarantee a citizen to be awarded attorney fees when litigating an incidence of obstruction from hunting, fishing, trapping, or wildlife viewing. Since the use of fish and game resources by Alaskan citizens and access to those resources are guaranteed by the Alaska Constitution, we believe the changes the proposed legislation will bring are a necessary correction to an oversight in existing statute.

With regard to Representative LeDoux's question regarding rate of incidence:

While there is a minor frequency of occurrence, this change would serve as a deterrent to those wishing to obstruct the lawful use of fish and game resources and provide peace of mind to our license holders.

By passing this legislation today the committee will join us in validating the constitutional right of Alaska's private citizens to lawfully use fish and game resources.

We express our gratitude to the sponsor and the committee for hearing this legislation today and ask for a speedy passage from this committee.

Jennifer Yuhas, Executive Director
Alaska Outdoor Council, and
Alaska Fish & Wildlife Conservation Fund
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House of Representatives

MEMO

To: Senator Thomas Wagoner
Chair, Senate Resources Committee

Fm: Jim Pound, Chief of Staff 

Cc:

Date: January 19, 2006,

Re: Request for hearing of CSHB 107 (FIN)

Please accept this Memo as a request for the Senate Resources Committee to hear CS for HB 107, "An Act providing for the award of full actual attorney fees and costs to a person aggrieved by unlawful obstruction or hindrance of hunting, fishing, or viewing of fish or game; amending Rules 79 and 82, Alaska Rules of Civil Procedure; and amending Rule 508, Alaska Rules of Appellate Procedure." CSHB 107 will allow a person who is obstructed from enjoying Alaska's wildlife including hunting, trapping or viewing to collect full attorney fees and costs when they challenge the obstruction in court.

Thank you in advance for scheduling CSHB 107 before the Senate Resources Committee.

Attachments: Sponsor Statement, Reference memo regarding changes, CSHB 107 (FIN), CSHB 107 (JUD), CSHB 107 (RES) HB 107, Fiscal Notes, Reference Statute AS 16.05.790, Court Rule 82, Court Rule 508, Support letter or commentary

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

Thank you

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 107(RES)
 (H) Publish Date: 2/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Atty Fees: Hunting/Fishing Interferenc RDU _____
 Sponsor Representative Ramras Component _____
 Requester House Resources Committee 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 | 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 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