

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

**BIG GAME COMMERCIAL SERVICES BOARD
TRANSPORTER SUBCOMMITTEE**

**MINUTES OF MEETING
April 7, 2016**

By the authority of AS 08.01.070(2) and AS 08.86.030, and in compliance with the provisions of AS 44.62, Article 6, a teleconference of the Big Game Commercial Services Board transporter subcommittee was held April 7, 2016.

The staff of the Division of Corporations, Business and Professional Licensing prepared these minutes; they have not been approved by the board.

AGENDA ITEM 1 CALL TO ORDER/ROLL CALL

The meeting was called to order at 1:00pm by Dave Jones, Transporter Subcommittee Chairman.

Subcommittee Members present:

Dave Jones
Tom Atkins
Joe Schuster

Mark Richards
Rolan Ruoss

Subcommittee Members absent:

Aaron Bloomquist

Participants:

Jane Dale, AK Air Carriers Association

Board Staff Present:

Sara Chambers, Operations Manager
Cindy Hansen, Licensing Examiner

AGENDA ITEM 2 REVIEW AGENDA

AGENDA ITEM 3 PUBLIC COMMENT

Chairman Jones stated the board decided at the March meeting to rescind the board's March 2015 resolution to the legislature to eliminate the AS 08.54.790 (12)(B) Transporter License Exemption. There had been concern that air taxis were not obeying the laws but this subcommittee has begun working on the final agenda items:

1. Finalize the "Industry Outreach Letter" document to forward to the full BGCSB and ask the board to approve it for distribution.
2. Finalize the "Frequently Asked Questions" document to forward to the full BGCSB and ask the board to forward it to the legal department for clarification prior to posting it on the BGCSB web site.
3. Review the "Analysis Guide V Transporter 2015" document and consider a proposal to the full BGCSB for a transporter fee adjustment.
4. Consider other Actions to Recommend to the BGCSB

The "Industry Outreach Letter" and FAQ document will shed light on the grey areas of the regulations and answer questions that an air taxi or transporter might have. Currently agencies and board members offer different interpretations. These documents will be reviewed by the Dept. of law so that everyone will have the same answer. The FAQ document will be posted on the BGCSB website for reference. The third item was the recent fee increase and Chairman Jones did his own analysis for 2015 and 16.

ITEM #1: Chairman Jones read the DRAFT INDUSTRY OUTREACH LETTER:

A State of Alaska, Big Game Commercial Services Board, Industry Outreach Letter

The Big Game Commercial Services Board (BGCSB) is contacting you as a member of Alaska's bush transportation industry.

The board has recognized that there are several misconceptions in this industry as it applies to the carriage of big game hunters. It is the desire of the BGCSB, through this letter, to shed light on many of these misconceptions in an effort to bring the industry into compliance with state statutes and regulations.

Alaska Statutes, Chapter 54 (AS 08.54.591 – AS 08.54.790) has tasked the BGCSB with regulating the carriage for compensation of big game hunters, their equipment or big game animals harvested by hunters, to, from or in the field. The “field” means an area outside of established year round dwellings, businesses or other developments associated with a city, town or Village; “field” does not include permanent hotels or roadhouses on the state road system or state or federally maintained airports.

YOU ARE REQUIRED to have a TRANSPORTER LICENSE if your business provides transportation to big game hunters to, from or in the field with one exception.

The only exception to this requirement is provided to an air taxi operator or air carrier who does not charge more than their usual tariff or charter rate for the carriage of hunters, their equipment or animals harvested by hunters; or advertise transportation services or big game hunting services to the public.

There are no exceptions to the transporter license requirements for other forms of transportation including boats, ATVs, horses and etc.

The authority for this information is Alaska Statutes 08.54.790 (7) and (12) which are included in this letter’s supplement.

Air Taxi Operators and Air Carriers Without a Transporter License

The BGCSB and members of the public have identified several air taxis who are advertising hunting transportation to destinations in the field in violation of AS 08.54.790 (12). This violation is punishable by **information to be provided by Investigations.**

Please review your advertising information such as your signage, brochure, web site and ads placed in other print or electronic media. Also consider the advertising materials of any travel agents or booking agents who market your services.

Please remove any advertising references to big game “hunting”, “hunts” or “hunters”. Please remove any photographs of big game hunters with the animals, horns or antlers they have taken. Please discontinue accepting reservations from travel or booking agents whose advertising includes these same features.

The BGCSB and the Alaska State Troopers continue to monitor hunt related advertising and may prosecute you if you begin or continue to violate the law. It’s in everyone’s best interest to be compliant and so, we thank you in advance for your cooperation.

Businesses That Use Boat, ATV, Horse or Other Types of Transport in the Field

You are required to have a transporter license if your business provides transportation for compensation of big game hunters, their equipment or big game animals harvested by hunters, to, from or in the field.

You can apply for a transporter license by contacting:

The Big Game Commercial Services Board
P.O. Box 110806 Juneau, AK 99811-0806
Main Phone: (907) 465-2550 FAX: (907) 465-2974

If you are already licensed, please review your business practices to insure you are in compliance with the transporter contract and transporter activity report requirements of your license. Failure to complete these forms is a violation that may result in fines and sanctions against your license.

These requirements are explained in 12 AAC 75.400 TRANSPORTER ACTIVITY REPORT and 12 AAC 75.450 TRANSPORTER CONTRACTOR REQUIREMENTS which are included in this letter's supplement.

Air Taxi Operators and Air Carriers With a Transporter License

The BGCSB is concerned that many transporters may not be completing their required contracts and reports. Please review your business practices to insure you are in compliance with the transporter contract and transporter activity report requirements of your license. Failure to complete these forms is a violation that may result in fines and sanctions against your license.

These requirements are explained in 12 AAC 75.400 TRANSPORTER ACTIVITY REPORT and 12 AAC 75.450 TRANSPORTER CONTRACTOR REQUIREMENTS which are included in this letter's supplement.

The BGCSB would like to thank you for reading this letter and for your efforts to remain, or become, compliant with state law as it pertains to hunting transportation.

This letter would be sent to air taxis and transporters. Mr. Atkins stated he doesn't have anything to add. Mr. Schuster stated he thinks the letter is complete. Mr. Richards stated Trooper Fussey explained that air carriers who are not transporters are allowed to charge more as long as they charge more to everyone and not just hunters and it would be helpful if the punishments were included in the letter. Mr. Rolan stated this letter is already getting feedback. Barry Stanley had seen the draft and was concerned about being required to be a transporter. The way the letter reads with advertising, he would have to become one. Mr. Stanley does not consider himself a transporter but the outreach letter

makes it sound as if he should have a transporter license. This is going to produce a lot of feedback with the way it is written.

Chairman Jones stated as long as a transporter doesn't limit higher rates to hunters then it's legal. He thinks the regulation speaks for itself.

Mr. Ruoss moved to adopt the draft to go to the board for a legal review and Mr. Atkins seconded. There was unanimous consent.

ITEM #2: Chairman Jones stated that subcommittee members should have reviewed the document which, if accepted, would be reviewed by the legal dept. and the correct answers provided. We are a subcommittee and tasked with state law but would like our legal department to take federal laws into consideration since there are some that might supersede state laws.

Mr. Atkins stated he would like strong clarification for question #2 on the second page: Do I need to complete a transporter contract and a transporter activity report when I fly a hunter to a licensed guide camp or to another licensed transporter's lodge or boat? Mr. Schuster stated the FAQ document contains good questions. Mr. Richards stated they won't get an answer about Federal DOT certificates from the Department of Law. They will need an opinion from Federal DOT. Chairman Jones stated the board does not have authority but perhaps he or Mr. Richards could write a letter and ask. Jane Dale from the Alaska Air Carriers Association stated the AACA has submitted a series of questions to the Fed DOT and she will provide their answers back to the subcommittee. Mr. Ruoss stated a FAQ document will be very helpful. Mr. Schuster stated he has also sent questions to the Federal DOT about the pre-emption and it's good that they are bringing it to the Federal DOT's attention.

Mr. Ruoss moved to adopt the FAQ document to go to the board for a legal review and Mr. Atkins seconded. There was unanimous consent.

ITEM #3: Chairman Jones stated he conducted a poor man's analysis of the costs of transporters and guides because the divisions accounting system is unable to pull that information. The division provides a budget report for the board in FY 2015 total expenditures of \$478,180. Of that amount, direct expenditures were \$367,361 and of that amount \$246,290 are investigative expenses. Less that amount is \$121,071 for the licensing examiners work. He was unable to break down the examiner's work for guides and for transporters so he created four task categories. Part one is the processing of new

license applications: 88% are guides and 12% are transporters. Part two is the processing of license renewals: 91% are guides and 9% are transporters. Part three is testing: 100% is guides. Part four is hunt records and transporter activity report filing which he split 50/50 for guides and transporters. The investigative report shows there were 58 guides' cases and 1 transporter case: 98% were guide related and 2% were transporters.

Chairman Jones stated the indirect expenditures are a bit obscure; such as heat for a building that houses several licensee programs. The annual fiscal report to prof licensing boards and commissions shows the state divides the costs per the number of licenses. He applied this to licensees with 91% of licenses issued to guides and 9% issued to transporters in 2015.

The estimated total bi-annual transporter income in FY16/17 was \$162,400. The estimated total FY16 transporter income (50% of \$162,400) was \$81,200 with the total FY16 transporter expenditures (same number as FY15 + 10%) at \$40,029. This resulted in a FY16 annual transporter surplus of \$41,171.

Chairman Jones stated he believes this is what it costs to process transporter and guide applications and licenses. The transporters are paying their way and contributing to the retirement of the debt by their fees at the old rate prior to the increase. He used the spreadsheet analysis 3/5/2016 presented to the board on March 10, 2016 and came up with a \$41,171 surplus from transporters. If they break out 8% of the program costs over the past years they show the transporters would pay for 9% of the costs and retire their share of the debt in three years without having a TAR filing fee. He hopes this will shed light on their case for leniency with a TAR filing fee.

Mr. Atkins stated this is a fair analysis, sheds a lot of light and brings up the bigger question of why. Mr. Schuster stated he hasn't had a chance to study it but it seems like there are some fair assumptions. He asked Chairman Jones if he broke down the guide income and debt. Chairman Jones stated he broke down the guide portion of the fees but did not analyze how the guide fees affect the retirement of the debt. Mr. Schuster stated he would like to see if the guides are also paying off the debt. Mr. Richards stated it is unfortunate that this wasn't put together for the legislature to explain where the costs are coming from and what will be done with this analysis. Chairman Jones stated basically the transporter industry is asking for clemency. The \$50 TAR filing fee is unfair and inequitable.

Mr. Richards stated he heard that a board can't reduce a fee. Ms. Chambers stated the authority for governance of a fee is with the department. The division has always been responsible to analyze and set fees. They are required to get input and not operate in a

vacuum. While the board does not have the jurisdiction, formal and information conversation helps the state. It is appropriate the subcommittee go back to the board with recommendations to the board to recommend to the division any number of things to do with the fees. The board can discuss and communicate that in the form of a motion, in a teleconference if it wishes. This is the second subcommittee she has been involved in since the fee was adopted as well as emails and conversations. The division is not married to this particular fee. This was a concept informally created with board members. It came up at a meeting on July 23, 2015 with only two of the three participating board members attending who supported the fee. There was not a quorum of the board. The division has since been discussing alternatives and has short term and long term alternatives.

There is no way to waive the fee without repealing the fee, or they can have another fee amount or a new fee. It would all have to go through the public notice process and filed with the Lt. Governor and take three to six months.

Mr. Richards asked if the transporter fees were reduced would the guide fees be increased. Chairman Jones stated the guide fees would need to be analyzed to ensure the debt is reduced. Ms. Chambers stated she has repeatedly heard that the transporters want to pay their fair share and all licensees have been positive about paying down the debt. They need to politically keep their arms locked arm in arm and evaluate the best way to do this and tweak some elements but they need to come to a pretty quick conclusion of an alternative that will still chip away at the deficit while being more acceptable to the licensees. The legislature will not like it if they do not reduce their debt. The legislature is scheduled to adjourn nine days from now and the bill for the boards new sunset has not yet passed, with the current sunset being next year. An alternative solution could not be less revenue than currently projected but needs to be done quickly through regulation.

The 2011 legislative audit stated very clearly that the HR and TAR database was extremely expensive to maintain and questioned whether or not it should remain. They analyzed the cost of the old database and learned that it took an entire clerk 100% of their time and part of the examiners time. The debt probably includes hundreds and thousands of dollars to use the old database. They created a new database that is more time efficient, although still at a cost. The board had expressed that it did not want non-contracting guides getting use of the database at no cost. The guide use area registration fees also cover this database. Mr. Richards asked if the HR and TAR database had any value. Ms. Hansen and Ms. Chambers explained that the Investigations office, the Troopers and the department of Law need the database to enforce statutes and regulations. The office needs the database to process registered guide license applications and the departments of Fish and Game and Natural Resource use the database for landowner permission

requests. Ms. Chambers stated the database is a legislative directive. Mr. Richards stated the fee analysis has helped him in his conversations about transporters already paying more than their fair share. He thinks it is fair to ask the legislator for the other state agencies pay for their use of the database. He would like to see a rollback to the July meeting.

Chairman Jones stated he does not believe it is appropriate for subcommittee members to go directly to the division with a fee request. Our charter is to discuss and make recommendations to the BGCSB and that is how they will proceed. As individuals they can directly talk to their legislator.

Mr. Ruoss stated proposal #2 will recommend to the BGCSB: that the TAR filing fee is reduced from \$50 to \$5. Mr. Atkins stated he is in favor of it but with the program debt and Alaska's current state of affairs, he doesn't think the board would support it. Chairman Jones stated he is afraid that about half of the transporters will jump ship if they make it completely unfriendly for an air taxi to be a transporter with the current \$50 fee and that would harm the debt reduction. Mr. Schuster stated their transporter forms can have up to six slots with as many clients as there are in a party and a guide form is only one per person. As a transporter he averages four to six people on a form and divided by \$50 is only \$12.50 per client. These debts we are trying to retire are none of our current licensees' responsibility but we want to work on it. He also outfits hunters and his clients save \$300 by not using the hunt record form and instead using the transporter form. Mr. Richards stated he supports it and Resident Hunters of Alaska support it.

Mr. Ruoss stated his proposal #3 is if the TAR filing fee is not reduced then reduce the number of TAR forms to an annual report filed one time a year per regulation. They should be clear that the division and board's suggestion to pass along the filing fee to the customers is a tax and one that doesn't have to be paid with air taxis.

Mr. Ruoss stated his proposal #1 is as a licensed transporter, regulation requires a contract with customers which he believes is a burden and not required by air taxis, FAA or other state agencies. It seems pointless unless that is a mutual benefit from the client and transporter. His proposal would eliminate the contract requirement. Chairman Vrem had explained that the reason for the transporter license was to remove the itinerant air taxis operating in places that weren't their home town and providing poor business which affected local villages and clients.

Mr. Atkins stated he agreed that the contracts are a big pain. Mr. Schuster stated this was addressed with Lt. Fussey at the March meeting who ran it up the chain and they determined transporters do not have to file a TAR if it is not advertised flight. It's

important that this language be left as is since legally they need details of a contract when exchanging services.

Mr. Richards sees no problem with it.

Mr. Ruoss moved to adopt proposal #1 to allow an exemption and Chairman Jones seconded it. Motion carries 3 to2.

Roll Call Vote:

| | APPROVE | DENY | ABSTAIN | ABSENT |
|------------------|---------|------|---------|--------|
| David Jones | | X | | |
| Tom Atkins | X | | | |
| Joe Schuster | | X | | |
| Aaron Bloomquist | | | | X |
| Mark Richards | X | | | |
| Rolan Ruoss | X | | | |

It was agreed to put both proposal #1 and #2 out for the board to decided which to support.

Mr. Ruoss moved to adopt proposal #2 to reduce the TAR filing fee from \$50 to \$5 and Mr. Richards seconded. The motion carried 4-1.

Roll Call Vote:

| | APPROVE | DENY | ABSTAIN | ABSENT |
|------------------|---------|------|---------|--------|
| David Jones | X | | | |
| Tom Atkins | X | | | |
| Joe Schuster | | X | | |
| Aaron Bloomquist | | | | X |
| Mark Richards | X | | | |
| Rolan Ruoss | X | | | |

Mr. Ruoss moved to adopt proposal #3 to simplify the TAR as an annual form and filed one time at the end of the year and Mr. Atkins seconded it. The motion carried 4-1.

Roll Call Vote:

| | APPROVE | DENY | ABSTAIN | ABSENT |
|------------------|---------|------|---------|--------|
| David Jones | X | | | |
| Tom Atkins | X | | | |
| Joe Schuster | | X | | |
| Aaron Bloomquist | | | | X |
| Mark Richards | X | | | |
| Rolan Ruoss | X | | | |

AGENDA ITEM 4 ACTION ITEMS

Chairman Jones will create a cover letter to ask the board to approve the industry outreach letter and FAQ document and ask the legal department to review it as soon as possible with consideration of federal law.

Chairman Jones will add guide income in his analysis.

Chairman Jones will send the subcommittee proposals to the Big Game Commercial Services Board.

AGENDA ITEM 5 ADJOURNMENT

Chairman Jones adjourned the meeting of the Alaska Big Game Commercial Services Transporter Subcommittee meeting at 3:20pm.

 Respectfully submitted:
 Cindy Hansen, Licensing Examiner

 David Jones Chairperson
 Transporter Subcommittee
 Big Game Commercial Services Board

Date: _____

Date: _____