

1 **State of Alaska**
2 **DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT**
3 **DIVISION OF CORPORATION, BUSINESS AND PROFESSIONAL LICENSING**

4
5 **BIG GAME COMMERCIAL SERVICES BOARD**
6 **Minutes of the teleconference held February 20, 2020.**
7

8 By the authority of AS 08.01.070(2) and AS 08.86.030, and in compliance with the provisions of AS 44.62,
9 Article 6, a scheduled teleconference of the Big Game Commercial Services Board was held; originating
10 at 333 Willoughby Ave., Juneau, Alaska on February 20, 2020.
11
12

13 **Agenda Item - Roll Call**

14 The teleconference was called order at 9:00 am by acting Chairman, Jason Bunch.
15

16 **Board Members Present Constituting a Quorum:**

17 Jason Bunch-Registered Guide Outfitter – *Acting Chair*

18 Larry Van Daele-Board of Game Representative

19 Michelle Heun-Licensed Transporter

20 Cash Joyce – Licensed Transporter

21 Adam Trombley-Public Member-*Vice Chair*

22 **Board Members Absent:**

23 Henry Tiffany-Licensed Registered Guide-*Board Chair*-EXCUSED

24 Pete Buist – Public Member-EXCUSED

25 Nicholas Jackson- Private Land Owner-UNEXCUSED

26 **Staff Members present:**

27 Renee Hoffard – Executive Administrator

28 Megyn Weigand-AAG, Department of Law
29

30 Mr. Van Daele asked to clarify for the record what the intent is with the language once the board makes
31 a decision based on the discussion. Mr. Bunch explained that pending board discussion the intent is to
32 have the language proposed as an amendment to a bill that is active in legislation. If the board waits
33 until the March meeting they may miss the opportunity to move this forward for this legislative session.
34 Ms. Hoffard stated that the division has already been contacted by several representatives that have
35 expressed interest in sponsoring the amendment once the language has been approved by the board.
36 Mr. Bunch explained the process that the he and the division went through to vet the two proposals on
37 the table for the board to consider. Ms. Weigand reviewed several variations of the language to ensure
38 it captures the intent of the board as discussed at the December board meeting. The board discussed
39 the elements needed for consistency between the statutes. Mr. Trombley asked questions for clarify
40 what specific terms needed to be consistent and Mr. Van Daele asked questions regarding the need for
41 consistency between AS 08.54.610 and AS 08.54.710. Ms. Weigand explained various scenarios to
42 demonstrate the importance of consistent language throughout the statutes and regulations.

43 The board moved to discussion of 08.610(5) and the time frame for suspension of licenses at it would
44 apply. After board members spoke of concerns regarding making the time frame overly restrictive it was
45 determined to recommend that be changed to “has not had a hunting, guiding, outfitting, or
46 transportation services’ license suspended or revoked within the last five years.”

47 The board then moved to discussion of AS 08.54.710(k)(1) and (2). The board proposed changing “may”
48 to “shall” in efforts to realign the language with the original intent in AS 08.54.710(1). Ms. Weigand
49 explained to the board that use of “may” will take away the legislature’s intended effect of this statute.
50 The statute was intended to provide a route to summary adjudication. By removing the compulsory
51 “shall” and reintroducing the permissive “may” the Board will have to provide full evidentiary hearings
52 in every case. There would no longer be a need for the statue because the Board already had the
53 authority to impose all levels of discipline on a master guide license for these things. Changing it to
54 “may” means the Division will have to file an accusation and go through the hearing process in Alaska,
55 even if a person’s license has been revoked in other states. That will get very expensive for the Board.
56 The circumstances listed under the “shall revoke” power should be the most egregious that the Board
57 can agree should disqualify someone from holding a MG license.

58 The board reviewed the proposed language for AS 08.54.710(k)(2) and were in agreement with the
59 proposed language

60 The board proceeded to discussion of AS 08.54.710(l). It was determined that with leaving AS
61 08.54.710(k) as written no changes should be proposed for AS 08.54.710(l).

62 **On a motion duly made by Adam Trombley, seconded by Michelle Heun and approved unanimously**
63 **by roll call vote, it was**

64 **RESOLVED to approve the draft language as amended for AS 08.54.610 and AS**
65 **08.54.710.**

66 Ms. Hoffard notified the board she is working on the UVC audit and will have more information for the
67 board at the March meeting.

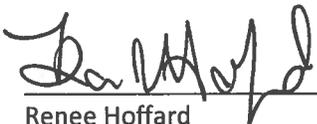
68 **On a motion duly made by Adam Trombley, seconded by Michelle Heun and approved unanimously**
69 **by roll call vote, it was**

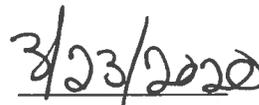
70 **RESOLVED to adjourn this teleconference of the board.**

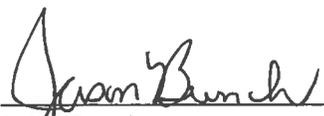
71

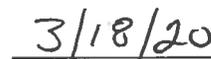
72 Off record at 12:08 pm

73 Respectfully Submitted,

74 
75 _____
76 Renee Hoffard
77 Executive Administrator
78


Date

79 
80 _____
81 Jason Bunch
82 Acting Chair


Date

Findings of the Alaska Big Game Commercial Services Board
Master Guide Statute Sec 08.54.710 and Sec 08.54.610

Purpose

Unintended consequences of SB43 Statute change for AS 08.54.710 (k)(2).

Discussion

Current language;

- (k) The board shall revoke the master guide-outfitter license of a person
- (1) whose right to obtain or exercise the privileges granted by a hunting, guiding, outfitting, or transportation services license is suspended or revoked in another state or in Canada; or
- (2) who is convicted of a violation of any state or federal law or regulation related to hunting or the provision of big game hunting or transportation services.

Example 1: A Master Guide who fails to physically possess a hunting license under 08.54.720 (a)(6) while in the field and actively guiding will trigger license revocation. A review of conviction history shows the result of such a charge can, and has, constituted a “conviction”. The board feels this example requires consideration before revocation is warranted.

Further consideration; Was an actual hunting license purchased or not? Was it intentional or accidental? Is there a trend in this licensee’s actions?

Example 2: A Master Guide forgets to register for a guide use area (GUA) but realizes once the hunt begins. Alaska Wildlife Troopers and Division of Commerce BGCS are immediately notified by the licensee. AWT charges the guide under 08.54.720 (a)(5)(B). This would result in a “conviction”.

Further consideration; What is the Master Guides historical GUA use? Are they consistent in the same area year after year? How many GUA’s are they currently registered for? How much time has transpired since the GUA was last registered? Was this intentional or accidental? This violation is often a simple administrative or human error the board believes was not intended to trigger license revocation.

There are many examples of administrative and human errors that may not warrant license revocation but are a violation of state hunting and guiding laws. December 2019, the BGCSB set out to identify the most inclusive method to capture “egregious acts” that would warrant revocation of a Master Guide license. The recommended language offered by the board is a result of hours of vetting with various licensees and invaluable assistance from the divisions dept. of law representative and investigators. The following information is provided to articulate the BGCSB intent of their unanimous recommendation.

Objective

- Construct statutes for attaining and maintaining a Master Guide license that substantiates the holder as an expert in the profession.
- Reduce the onerous burden of deciding what constitutes revocation for each conviction.
- Clearly define the BGCSB authority to revoke a Master Guide license by the results of the criminal law process without the costly and time-consuming requirement for an evidentiary hearing.
- Provide “a reasonable bold line” for revocation.
- Ensure language captures egregious violations.
- Ensure the board’s ability to respond to administrative or human errors that are not a public safety concern nor egregious can continue to be addressed with established Guidelines and Precedence.
- Ensure Title 8 Chapter 54 uses consistent language and criteria whenever possible.
- Ensure Alaska continues to provide the worlds most premier Big Game Guide Licensing program.
- Maintain and endeavor to grow a positive public perception.
- Provide fiscally responsible guidelines.

Recommendation

(k) The board shall revoke the master guide-outfitter license of a person

(1) whose right to obtain or exercise the privileges granted by a hunting, guiding, outfitting, or transportation services license is suspended or revoked in another state or in Canada; or

(2) who is convicted of **a violation of a state or federal hunting, guiding, or transportation services statute or regulation for which**

(A) the person is imprisoned for more than one day; or

(B) an unsuspended fine of more than \$1,500 is imposed.

1. In reference to BGCSB recommended language 08.54.710 (k); The board shall revoke the master guide-outfitter license of a person. “Shall revoke” more precisely meets board objectives. “Shall”;
 - Provides for a clear and concise threshold for both the board and licensees.
 - Alleviates the requirement for costly evidentiary hearings.
 - Alleviates repetitive work completed by the BGCSB and Investigations, providing the time and energy they need to be more effective in other aspects of their duties.
 - Establishes a more fiscally responsible standard.
 - Alleviates the burden of paying for the actions of “unlawful operators” for all classes of licensees.
 - Provides consistent language with other statutes (AS 08.54.605)

2. In reference to BGCSB recommended language 08.54.710 (k)(2) who is convicted of a violation of a state or federal hunting, guiding, or transportation services statute or regulation for which...
 - The BGCSB has not identified intent for “a state” to be interpreted as “Alaska state” or “any state” as of their last board meeting 2/20/20. The language was chosen solely because it was consistent with AS 08.54.605(a)(1)(A).
 3. In reference to BGCSB recommended language 08.54.710 (k)(2)(A) the person is imprisoned for more than one day; or
 - AS 08.54.605 (a)(1)(A)(i) states a license cannot be received, held or renewed if the person has served more than 5 days in jail in the previous 5 years from a conviction. “More than 1 day” meets the objective of providing for a higher standard for the Master Guide License ensuring positive public perception of the title.
 4. In reference to BGCSB recommended language 08.54.710 (k)(2)(B); an unsuspended fine of more than \$1,500 is imposed. Use the unsuspended fine that is a result of a criminal conviction in lieu of an unlawful act as the defining criteria for license revocation. An unsuspended fine of “more than \$1500.00” is recommended to meet objectives and capture egregious acts.
 - Under AS 08.54.605 an unsuspended fine of more than \$2,000.00 dictates all licenses be revoked. Lowering the fine amount under AS 08.54.710 (k) to unsuspended \$1500.00 places a higher standard on the Master Guide license. Furthermore, under provisions outlined in 08.54.710 (l) the board “may” authorize a Registered Guide license to a guide who has had their Master Guide license revoked under (k). It is the intent of the board to further define (l) under regulation to ensure a licensed professional does not lose their ability to operate their business without warrant or unless 08.54.605 revocation criteria is initiated.
 - Conviction case history reveals consistency of fines from one court to another. The higher the fine, the more egregious the violation.
 - Conviction case history reveals an unsuspended fine of more than \$1500.00 is the least likely marker to trigger revocation of a Master Guide license for administrative or human error while ensuring egregious acts are captured.
 - It allows for full advantage of due process at the criminal law level.
 - It creates a bold line for the BGCSB to adhere to.
 - It creates consistency with other disciplinary statutes (AS 08.54.605) within Title 8 Chapter 54.
 - Provides for a higher standard for the Master Guide License.
-

Purpose

Unintended consequences of SB43 Statute change under AS 08.54.610 (b)(4)(5).

Discussion

Current language;

(b)...A natural person is entitled to receive a renewable master guide-outfitter license if the person...

(4) has not been convicted of an offense under AS 08.54.720(a) or a similar law in another jurisdiction related to hunting or to the provision of big game hunting or transportation services within the 15 years preceding the date of the application; and;

- Under the current language of the statute (AS 08.54.610(b)(4) above), an administrative and/or human error (e.g. “paperwork” (non-egregious)) violation would cause a licensee to be required to wait fifteen years to get a Master Guide license. The BGCSB’s intent is to ensure that an administrative and/or human error is not a disqualifying criterion for a licensee to obtain a Master Guide license in the future.

Recommendation

(4) has not been convicted of

(A) a violation of a state or federal hunting, guiding, or transportation services statute or regulation for which

(i) the person was imprisoned for more than one day within the previous five years; or

(ii) an unsuspended fine of more than \$1,500 was imposed in the previous 5 years.

(B) a felony within the last 10 years; or

(C) a felony offense against the person under AS 11.41 within the last 15 years.

(5) has not had a hunting, guiding, outfitting, or transportation services’ license suspended or revoked within the last five years; and

- Meets objectives desired by the board to increase requirements to attain, maintain and re-attain a Master Guide license.
- This language is consistent with statute 08.54.605 and recommended language for statute 08.54.710 (K)
- (5) Provides an opportunity for a Master Guide to re-gain the title after “time served” and good behavior.

33	Hunting Season Bag Limit for Moose - Sublegal Moose	\$1000/\$500		\$2000/\$1700		1 yr
34	Wyoming, As Guide Harvested Elk on Private lands	\$380		\$760/\$380		1 yr
35	hunting Season Bag Limit for Sheep - Sublegal Sheep	\$2000/\$1000		\$4000/\$3000		1 yr
36	Failed to Validate Brn Bear Harvest Ticket	\$1500/\$750		\$3000/\$1000		1 yr
37	Failed to Salave all Edible Meat Moose	\$500		\$600/\$300		1 yr
38	Unsworn Falisification of Board App Stip to Revocation (Killed Harbor Seals)	Revocation			Rev	
39	Unsworn Falisification of Board App Stip to Revocation (Killed Harbor Seals)	Revocation			Rev	
	Class A Assistant Guides					
1	Harvest Brn Bear Sow w/Cub	\$500	\$1,300	\$1000/\$750		1 yr
2	Take Female Caribou Closed Season, neglect to Salvage Meat Caribou	\$1500/\$750		\$3000/\$1500		1 yr
3	Hunting Season Bag Limit for Moose - Sublegal Moose	\$300		\$600/\$300		1 yr
4	Hunting Season Bag Limit for Moose - Closed to Non Residents Hunters	\$300		\$600/\$300		1 yr
5	Harvest Ticket not in possession, Moose, Ed Orientation Required	\$150		\$500		0
6	Hunting Season Bag Limit for Moose - Sublegal Moose	\$300		\$600/\$300		1 yr
	Registered Guide-Outfitters					
1	Guide W/O Hunting License in Possession	\$1500/\$1000		\$3000/\$2000		2 yrs
2	2 Counts Unsworn Falsification Board App	\$600			Rev	
3	Multilple Counts Bear Bait, AS 08.54.720 Rule 11 Plea, Trespass	Revocation			Rev	
4	Unsworn Falsification of Hunt Record, Guide Use Area vio	\$2500/\$2000		\$5000/\$4000		2 yrs
5	Unlawful Possess of illegally taken game Mt. Goat, and Closed Season Goat	\$3500/\$1500		\$6000/\$4500		2 yrs
6	5 Counts Tamper w/Pub Record, Possess/Tranport ill Game and more	\$60,854				
7	Felony Lacey Act prohibition on Guiding/Hunting 4 years	\$2,000				
8	Take Brn Bear Cub	\$500		\$1000/\$500		1 yr
9	2 Cts Fail clean Bait, 1 Cnt Anml as Bait, 1 Bear every 4 yrs, 1 ovr limt, False Sealing Cert	\$37500/\$16250		\$7000/\$3500		2 yrs
10	BLM Special Use Permit Violation	\$250		\$250		0
11	Bait Station within 1 mile of Dwelling, Harvest Brn Bear Cub, over bait	\$1,000		\$2000/\$1000		1 yr
12	Hunting Season Bag Limit for Moose - Sublegal Moose	\$300		\$600/\$500		1 yr
13	US F&W Svs Unlawfull use of ORV's (Argos)	\$525		\$1050/\$300		1 yr
14	2 Cts Fail clean Bait, 1 Cnt Anml as Bait, 1 Bear every 4 yrs, 1 ovr limt, False Sealing Cert	\$37500/\$16250		\$7000/\$3500		2 yrs
15	Failed to Obtain Proper Goat Permits X 2	\$1000/\$500		\$2000/\$1500		6 mth's
16	Take Over limit Moose	\$500		\$1000/\$500		1 yr
17	Evidence of Sex on Moose	\$150		\$500		0

Surrender
Surrender

18	Multilple Counts Bear Bait, AS 08.54.720 Rule 11 Plea, Trespass	Revocation			Rev	
19	Non Resident Big Game Tag, Failed to attach metal locking tag	\$1000/\$500		\$1000/\$500		1 yr
20	Multilple Counts Bear Bait, AS 08.54.720 Rule 11 Plea, Trespass	Revocation			rev	
21	Failed to Salvage All Edible Meat Sheep	\$3000/\$2000	\$1,100	\$5000/\$4500		1 yr
22	Failed to Report Vio, Guide Use Area Vio, 2 Non Permit Bait Stat, 1 AS 720 Vio	\$35K/\$25k		\$5000/\$2500	rev	3 yrs
23	Criminal Guide License suspension 36 months w/18 months stayed*					
	Master Guide - Outfitter					
1	Hunt Private Lands X2, Guide Commit Aid, Unlawful Method of Take	65K/30K	\$2,600		rev	
2	Failed to Seal Brn Bears within 30 Days X2	\$200		\$400/\$200		1 yr
3	Failed to Complete Hunt Record	\$2000/\$1000		\$4000/\$3000		1 yr
4	2 Count Guide Aid 2 Counts Guide Fail to Report 600 Days in Jail, 570 days Sus	\$35,000			rev	
5	Failed to Salvage All Edible Meat Moose	\$500	\$5000 Don	\$5000/\$2500		1 Yr
6	Hunting Season Bag Limit for Moose - Over Limit Moose	\$300		\$900/\$450		2 yrs/1yr
	Transporters					
1	US F&W Svs ANWR Special Use Permit Violations X2	\$2,000		\$4000/\$3500		1 yr