



LAWS OF ALASKA

1976

Source

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Chapter No.

117

AN ACT

Relating to navigable or public waters.

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

* Section 1. INTENT. It is the intent of this Act to implement the provisions of art. VIII, sec. 14, Alaska State Constitution, relating to access to the navigable or public waters of the state.

* Sec. 2. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.127. ACCESS TO NAVIGABLE OR PUBLIC WATERS.

(a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the Department of Natural Resources shall,

(1) under regulations, determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for specific easements or rights-of-way, or both, reasonably necessary to insure free access to and along the body of water, unless the department finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

(b) The Department of Natural Resources shall adopt regulations implementing this section.

(c) Nothing in this section affects valid existing rights.

* Sec. 3. AS 38.05.345 is amended by adding a new subsection to read:

(d) Where the land involved is adjacent to a body of water or waterway which the department has not previously determined to be navigable or public, or not navigable or public, the notice shall state that such a determination is to be made.

* Sec. 4. AS 38.05.365 is amended by adding new paragraphs to read:

(22) "navigable waters" means any water of the state forming a river, stream, lake, pond, slough, creek, bay, sound, estuary, inlet, strait, passage, canal, sea or ocean, or any other body of water or waterway within the territorial limits of the state or subject to its jurisdiction, that is navigable in fact for any useful public purpose, including but not limited to water suitable for commercial navigation, floating of logs, landing and takeoff of aircraft, and public boating, trapping, hunting waterfowl and aquatic animals, fishing, or other public recreational purposes;

(23) "public waters" means navigable water and all other water, whether inland or coastal, fresh or salt, that is reasonably suitable for public use and utility, habitat for fish and wildlife in which there is a public interest, or migration and spawning of fish in which there is a public interest.