



LAWS OF ALASKA

1985

Source

SCS CSHB 316(R1s)

Chapter No.

82

AN ACT

Relating to the navigable or public waters of the state; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

Approved by the Governor: June 2, 1985
Actual Effective Date: June 3, 1985

AN ACT

Relating to the navigable or public water of the state;
and providing for an effective date.

* Section 1. FINDINGS AND PURPOSE. (a) The people of the state have a constitutional right to free access to the navigable or public waters of the state.

(b) Subject to the federal navigational servitude, the state has full power and control of all of the navigable or public waters of the state, both meandered and unmeandered, and it holds and controls all navigable or public waters in trust for the use of the people of the state.

(c) Ownership of land bordering navigable or public waters does not grant an exclusive right to the use of the water and any rights of title to the land below the ordinary high water mark are subject to the rights of the people of the state to use and have access to the water for recreational purposes or any other public purpose for which the water is used or capable of being used consistent with the public trust.

(d) This Act may not be construed to affect or abridge valid existing rights or create any right or privilege of the public to cross or enter private land.

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

Sec. 38.05.128. OBSTRUCTIONS TO NAVIGABLE WATER. (a) A person may not obstruct or interfere with the free passage by a member of the public on any navigable water as defined in AS 38.05.965(12) unless the obstruction or interference is

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- 1 (1) authorized by a federal or state agency;
2 (2) authorized under a federal or state law or permit;
3 (3) exempt under the Federal Clean Water Act (33 U.S.C.,
4 1344(f));
5 (4) caused by the normal operation of freight barging that
6 is otherwise consistent with law; or
7 (5) authorized by the commissioner after reasonable public
8 notice.

9 (b) A violation of (a) of this section is a class B misdemeanor.

10 (c) An unauthorized obstruction or interference is a public
11 nuisance and is subject to abatement. The cost of abatement shall be
12 borne by the violator and is in addition to any penalty imposed by the
13 court.

14 (d) This section may not be construed to affect or abridge valid
15 existing rights.

16 * Sec. 3. AS 38.05.127(c) is repealed and reenacted to read:

17 (c) Nothing in this section affects valid existing rights or
18 limits in any way the constitutional right of the public to use and
19 have free access to the navigable or public waters of the state.

20 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).