



LAWS OF ALASKA

1997

Source
CSHB 23(RES)

Chapter No.
65

AN ACT

Relating to management of state land; and relating to access to land.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 4, 1997
Actual Effective Date: September 2, 1997

AN ACT

1 Relating to management of state land; and relating to access to land.

2

3 * Section 1. INTENT. It is the intent of the legislature that nothing in this Act affects
4 private property owners' rights that exist on the effective date of this Act.

5 * Sec. 2. AS 38.04.055 is amended to read:

6 Sec. 38.04.055. Access through private use areas. The commissioner
7 [DIRECTOR] shall reserve easements and rights-of-way on and across land that
8 [WHICH] is made available for private use as necessary to reach or use public water and
9 public and private land. An easement or right-of-way reserved under this section shall
10 [MAY] include trails that have an established history of use for commerce, recreation,
11 [OR] transportation, or providing access to a traditional outdoor activity. In this
12 section, "traditional outdoor activity" has the meaning given in AS 38.04.200.

13 * Sec. 3. AS 38.04.058 is amended to read:

14 Sec. 38.04.058. Restrictions on easement or right-of-way use. The
15 commissioner [DIRECTOR] may, under terms agreed to in writing by a grantee, lessee,

Chapter 65

1 or interest holder of state land, restrict the use of an easement or right-of-way reserved
2 under AS 38.04.050, 38.04.055, or other law in order to protect public safety or property.

3 The commissioner may not agree to or enforce a restriction under this section
4 unless the restriction is narrowly tailored to achieve the protection of public safety
5 and property while preserving access to the maximum extent practicable and the
6 commissioner makes a written finding identifying how the restriction will protect
7 public safety and public or private property.

8 * Sec. 4. AS 38.04 is amended by adding a new section to read:

9 **Article 3A. Access To State Land.**

10 **Sec. 38.04.200. Traditional means of access.** (a) The commissioner may not
11 manage state land, water, or land and water so that a traditional means of access for
12 traditional outdoor activities is restricted for the purpose of protecting aesthetic values
13 of the land, water, or land and water or is prohibited unless the restriction or
14 prohibition is

15 (1) for an area of land, water, or land and water that encompasses 640
16 contiguous acres or less;

17 (2) temporary in nature and effective cumulatively less than eight
18 months in a three-year period;

19 (3) for the protection of public safety and public or private property;

20 (4) for the development of natural resources and a reasonable
21 alternative for the traditional means of access across the land, water, or land and water
22 for traditional outdoor activities on other land, water, or land and water is available
23 and approved by the commissioner; or

24 (5) authorized by act of the legislature.

25 (b) In this section,

26 (1) "aesthetic values" means those values that exist as an expression of
27 the social or cultural viewpoint held by a portion of the population;

28 (2) "traditional means of access" means those types of transportation
29 on, to, or in the state land, water, or land and water, for which a popular pattern of use
30 has developed; the term includes flying, ballooning, boating, using snow vehicles,
31 operation of all-terrain vehicles, horseback riding, mushing, skiing, snowshoeing, and

1 walking;

2 (3) "traditional outdoor activities" means those types of activities that
3 people may use for sport, exercise, subsistence, including the harvest of foodstuffs, or
4 personal enjoyment, including hunting, fishing, trapping, gathering, or recreational
5 mining, and that have historically been conducted as part of an individual, family, or
6 community life pattern on or in the state land, water, or land and water.