

SENATE BILL NO. 45

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR HALFORD

Introduced: 1/25/99

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tort immunity for personal injuries or death occurring on
2 land; relating to the vacation by the state or a municipality of rights-of-way
3 acquired by the state under former 43 U.S.C. 932; and providing for an effective
4 date."

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

6 * **Section 1.** AS 09.65.200(a) is amended to read:

7 (a) An owner of [UNIMPROVED] land is not liable in tort, except for an act
8 or omission that constitutes gross negligence or reckless or intentional misconduct, for
9 damages for the injury to or death of a person who enters onto or remains on the
10 [UNIMPROVED PORTION OF] land if

11 (1) the injury or death resulted from a natural condition of the
12 [UNIMPROVED PORTION OF THE] land or the person entered onto the land for
13 recreation; and

14 (2) the person had no responsibility to compensate the owner for the

1 person's use or occupancy of the land.

2 * **Sec. 2.** AS 19.30.410 is amended to read:

3 **Sec. 19.30.410. Vacation of rights-of-way.** Notwithstanding another provision
4 of law, the Department of Natural Resources, the Department of Transportation and
5 Public Facilities, or another agency of the state may not vacate a right-of-way acquired
6 by the state under former 43 U.S.C. 932 unless

7 (1) a reasonably comparable, established alternate right-of-way or
8 means of access exists that is sufficient to satisfy all present and reasonably
9 foreseeable uses;

10 (2) the right-of-way is within a municipality, the municipal assembly
11 or council has requested the vacation, a reasonable alternative means of access is
12 available, and the vacation is in the best interests of the state; or

13 (3) the vacation is approved by the legislature.

14 * **Sec. 3.** AS 29.10.200 is amended by adding a new paragraph to read:

15 (59) AS 29.35.090(b) (certain vacations of rights-of-way prohibited).

16 * **Sec. 4.** AS 29.35.090 is amended by adding a new subsection to read:

17 (b) Notwithstanding AS 29.40.160 or other provisions of law, a municipality
18 may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932. This
19 subsection applies to home rule and general law municipalities.

20 * **Sec. 5.** AS 09.65.200(c) is repealed.

21 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).