

CS FOR HOUSE BILL NO. 415(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/3/06

Referred: Rules

Sponsor(s): REPRESENTATIVES SEATON, Gatto, Kelly

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to landowners' immunity for allowing use of land without charge for a**
2 **recreational activity; relating to landowners' liability where landowner conduct involves**
3 **gross negligence or reckless or intentional misconduct; relating to claims of adverse**
4 **possession and prescriptive easements, or similar claims; and providing for an effective**
5 **date."**

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

7 *** Section 1.** AS 09.65 is amended by adding a new section to read:

8 **Sec. 09.65.202. Tort immunity for landowners' allowing recreational**
9 **activity; adverse possession.** (a) A landowner that directly or indirectly allows a
10 recreational activity on the landowner's land without charge does not, by allowing that
11 activity,

12 (1) owe a duty of care to maintain the land safe for entry or use for a
13 recreational activity or to eliminate, alter, or control the inherent risks of a recreational

1 activity;

2 (2) owe a duty to warn persons using the land for a recreational
3 activity of any dangerous condition, known or unknown, apparent or hidden;

4 (3) owe a duty to curtail or prevent use of the land for recreational
5 activities;

6 (4) implicitly ensure that the land is safe for any purpose;

7 (5) confer a legal status, such as invitee or licensee, to which a special
8 duty of care is owed; or

9 (6) assume responsibility for any injury to persons or property.

10 (b) This section does not apply to a civil action

11 (1) if the landowner collects a charge for entry on the land for a
12 recreational activity; or

13 (2) based on intentional, reckless, or grossly negligent conduct of the
14 landowner.

15 (c) This section may not be construed to conflict with, nor does it have any
16 effect on, a liability release agreement between a participant in a recreational activity
17 and a landowner.

18 (d) Except as provided for under AS 09.45.052(d), land use allowed by a
19 landowner for a recreational activity without charge may not form the basis of a claim
20 for adverse possession, prescriptive easement, or a similar claim.

21 (e) In this section,

22 (1) "charge" means a fee or admission price imposed for access to or
23 use of land, a recreational activity, a service, an entertainment, or another activity,
24 except that the following is not considered a "charge":

25 (A) consideration received by the landowner from the state or
26 political subdivision for land leased or dedicated to the state or political
27 subdivision;

28 (B) property tax relief in exchange for a landowner's agreement
29 to open land for a recreational activity;

30 (C) a contribution in kind, service, or cash from a user if all of
31 the contribution is used to improve access or trails, to remedy or reduce

1 damage, to provide warning of a hazard, or to remove a hazard from the land;

2 (2) "land" includes private

3 (A) improved or unimproved land;

4 (B) ways or land subject to an easement or right-of-way;

5 (C) roads and trails;

6 (D) water and watercourses on or running through the land;

7 (E) buildings, structures, other improvements, machinery, and
8 equipment on the land;

9 (3) "landowner" means

10 (A) a private owner or holder of the possessory or controlling
11 interest in land, including a fee simple interest or life estate;

12 (B) a private lessee;

13 (C) the private holder of an easement; or

14 (D) another private person in control of the land;

15 (4) "recreational activity" has the meaning given in AS 09.65.290.

16 * **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).