

HOUSE BILL NO. 420

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/1/06

Referred: House Special Committee on Fisheries, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to riparian protection standards for forest resources and practices;**
2 **and providing for an effective date."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 FINDINGS AND PURPOSE. (a) The legislature finds that

7 (1) the Forest Resources and Practices Act (AS 41.17)

8 (A) establishes a policy of protecting riparian areas from significant
9 adverse effects on fish habitat and water quality from timber harvest activities; and

10 (B) divides the state into three forested regions for riparian area
11 protection purposes, in recognition of the fact that standards necessary to adequately
12 protect fish habitat and water quality may vary according to the different
13 characteristics of each of these three regions;

14 (2) the Forest Resources and Practices Act has already established detailed

1 riparian protection standards for the southern coast (Region I) and interior (Region III) of the
2 state, which all available evidence continues to indicate adequately protect riparian areas in
3 these regions; however, the legislature has not previously established similarly detailed
4 standards for inland southcentral Alaska (Region II), because of the need for additional
5 research and scientific collaboration specific to that region;

6 (3) an intensive analysis of riparian habitat characteristics in Region II has
7 been completed, and proposed detailed standards for riparian protection in Region II that are
8 based upon the unique nature of Region II's riparian ecosystems have been developed; these
9 proposed standards have been endorsed by the Board of Forestry and the Department of
10 Natural Resources;

11 (4) the proposed standards for Region II recognize that certain distinctive
12 features of riparian areas in Region II exist that warrant special protection standards that differ
13 significantly from the standards applicable to either Region I or Region III; these distinctive
14 features include

15 (A) a relative abundance of wide, unconfined, and dynamic river
16 channels in forested areas; the falling of trees into these rivers as a result of the
17 frequent shifting of river banks is a major contributor of beneficial large woody debris
18 to these channels; trees along these rivers can therefore become an important source of
19 large woody debris even though they are currently located relatively far from the river;

20 (B) a greater diversity and wider distribution of fish species, including
21 high value resident fish species, than in other regions of the state;

22 (C) more intensive use of Region II's fresh waters for sport fishing
23 than in other regions of the state; and

24 (D) a relatively low volume per acre of riparian timber, and a relatively
25 high proportion of hardwoods that have a shorter residence time as large woody
26 debris; as a result, a wider no-harvest area is necessary along dynamic river channels
27 in Region II in order to provide a volume of large woody debris equivalent to that
28 yielded by a smaller buffer in other regions;

29 (5) the proposed standards for Region II are responsive to the distinctive
30 features listed in (4) of this subsection.

31 (b) The purpose of this Act is to further the Forest Resources and Practices Act's goal

1 of region-specific riparian protection standards in this state by adopting standards that have
2 been tailored to the unique conditions of the inland southcentral area of the state.

3 * **Sec. 2.** AS 41.17.116 is repealed and reenacted to read:

4 **Sec. 41.17.116. Riparian standards for private land.** (a) Private forest land
5 adjacent to the following types of waters and located in Region I is subject to the
6 riparian protection standards established in this subsection:

7 (1) along a Type I-A water body,

8 (A) operations within 100 feet of the water body or to the break
9 of the slope, whichever area is smaller, shall be conducted in compliance with
10 slope stability standards established in regulations adopted under this chapter;
11 and

12 (B) harvest of timber may not be undertaken within 66 feet of
13 the water body;

14 (2) along a Type I-B water body,

15 (A) operations within 100 feet of the water body or to the break
16 of the slope, whichever area is smaller, shall be conducted in compliance with
17 slope stability standards established in regulations adopted under this chapter;
18 and

19 (B) harvest of timber may not be undertaken within 66 feet of
20 the water body or to the break of the slope, whichever area is smaller;

21 (3) along a Type I-C water body,

22 (A) operations within 100 feet of the water body or to the break
23 of the slope, whichever area is smaller, shall be conducted in compliance with
24 slope stability standards established in regulations adopted under this chapter;
25 and

26 (B) where prudent, the operator shall retain low value timber
27 within 25 feet of the water body or to the limit of the area described in (A) of
28 this paragraph, whichever area is greater, where the width of the water body is

29 (i) greater than 13 feet at the ordinary high water mark;

30 or

31 (ii) greater than eight feet at the ordinary high water

1 mark if the channel is incised;

2 (4) along a Type I-D water body,

3 (A) operations within 50 feet of the water body or to the break
4 of the slope, whichever area is smaller, shall be conducted in compliance with
5 slope stability standards established in regulations adopted under this chapter;
6 and

7 (B) where prudent, the operator shall retain low value timber
8 within 25 feet of the water body or to the limit of the area described in (A) of
9 this paragraph, whichever area is greater, where the width of the water body is

10 (i) greater than 13 feet at the ordinary high water mark;

11 or

12 (ii) greater than eight feet at the ordinary high water
13 mark if the channel is incised.

14 (b) Private forest land adjacent to the following types of waters and located in
15 Region II is subject to the riparian protection standards established in this subsection:

16 (1) along a Type II-A water body, harvest of timber may not be
17 undertaken within 150 feet of the water body; additionally, harvest of timber may not
18 be undertaken along outer bends subject to erosion within 225 feet of the water body
19 or to the terrace top break, whichever is smaller;

20 (2) along a Type II-B water body, harvest of timber may not be
21 undertaken within 150 feet of the water body; additionally, harvest of timber may not
22 be undertaken along outer bends subject to erosion within 325 feet of the water body
23 or to the terrace top break, whichever is smaller;

24 (3) along a Type II-C water body, harvest of timber may not be
25 undertaken within 100 feet of the water body;

26 (4) along a Type II-D water body, there is a 100-foot riparian area;
27 harvest of timber may not be undertaken within 50 feet of the water body;

28 (5) the length of the augmented buffer along an outer bend subject to
29 erosion in (1) or (2) of this subsection must be equal to a distance eight times the
30 stream width measured on a reach between bends at a point not widened by a point bar
31 or channel movement; the augmented buffer must be located so that three stream

1 widths are upstream and five stream widths are downstream of the point opposite the
2 apex of the point bar;

3 (6) where an estuarine area is adjacent to an anadromous or high value
4 resident fish water body, the riparian retention area for the adjacent water body applies
5 to the estuarine area.

6 (c) Private forest land adjacent to the following types of waters and located in
7 Region III is subject to the riparian protection standards established in this subsection:

8 (1) along a Type III-A water body, harvest of timber may not be
9 undertaken within 66 feet of the water body;

10 (2) along a Type III-B water body, harvest of timber may not be
11 undertaken within 33 feet of the water body; between 33 feet and 66 feet from the
12 water body, up to 50 percent of standing white spruce trees having at least a nine-inch
13 diameter at breast height may be harvested without requiring a variation;

14 (3) along a Type III-C water body, harvest of timber within 100 feet of
15 the water body must be located and designed primarily to protect fish habitat and
16 surface water quality as determined by the state forester with due deference to the
17 deputy commissioner.

18 (d) In this section,

19 (1) "low value timber" means timber that the owner or operator
20 determines, at the time of harvest, to be uneconomic to harvest and market;

21 (2) "prudent" means that the requirement can be met using reasonably
22 available means or technology, that complying with the requirement is not likely to
23 create significant impairment of the productivity of the land and water, and that the
24 cost of achieving the requirement is not out of proportion to the benefits that can
25 reasonably be expected to be achieved in the particular situation.

26 * **Sec. 3.** AS 41.17.118 is repealed and reenacted to read:

27 **Sec. 41.17.118. Riparian standards for state land.** The riparian standards for
28 state land are as follows:

29 (1) on state forest land managed by the department that is in Region I,

30 (A) harvest of timber may not be undertaken within 100 feet
31 immediately adjacent to an anadromous or high value resident fish water body;

1 (B) between 100 and 300 feet from the water body, harvest of
2 timber may occur but must be consistent with the maintenance of important
3 fish and wildlife habitat as determined by the state forester with due deference
4 to the deputy commissioner;

5 (2) on state forest land managed by the department that is in Region II,

6 (A) along a Type II-A water body, harvest of timber may not
7 be undertaken within 150 feet of the water body; additionally, harvest of
8 timber may not be undertaken along outer bends subject to erosion within 225
9 feet of the water body or to the terrace top break, whichever is smaller;

10 (B) along a Type II-B water body, harvest of timber may not be
11 undertaken within 150 feet of the water body; additionally, harvest of timber
12 may not be undertaken along outer bends subject to erosion within 325 feet of
13 the water body or to the terrace top break, whichever is smaller;

14 (C) along a Type II-C water body, harvest of timber may not be
15 undertaken within 100 feet of the water body;

16 (D) along a Type II-D water body, there is a 100-foot riparian
17 area; harvest of timber may not be undertaken within 50 feet of the water body;

18 (E) the length of the augmented buffer along an outer bend
19 subject to erosion in (A) or (B) of this paragraph must be equal to a distance
20 eight times the stream width measured on a reach between bends at a point not
21 widened by a point bar or channel movement; the augmented buffer must be
22 located so that three stream widths are upstream and five stream widths are
23 downstream of the point opposite the apex of the point bar;

24 (F) where an estuarine area is adjacent to an anadromous or
25 high value resident fish water body, the riparian retention area for the adjacent
26 water body applies to the estuarine area;

27 (G) along Type II-A, II-B, II-C, and II-D water bodies, harvest
28 of timber may occur between the landward extent of the riparian retention area
29 and 300 feet from the water body consistent with the maintenance or
30 enhancement of important wildlife habitat as determined by the state forester
31 with due deference to the deputy commissioner;

1 (3) on state forest land managed by the department that is in Region
2 III,

3 (A) along a Type III-A water body, harvest of timber may not
4 be undertaken within 100 feet of the water body; however, between 66 feet and
5 100 feet from the water body, harvest of timber may be undertaken where
6 consistent with the maintenance of important fish and wildlife habitat as
7 determined by the state forester with the concurrence of the deputy
8 commissioner;

9 (B) along a Type III-B water body, harvest of timber may not
10 be undertaken within 50 feet of the water body; between 50 feet and 100 feet
11 from the water body, up to 50 percent of standing white spruce trees having at
12 least a nine-inch diameter at breast height may be harvested;

13 (C) along a Type III-C water body, harvest of timber within
14 100 feet of the water body must be consistent with the maintenance of
15 important fish and wildlife habitat as determined by the state forester with due
16 deference to the deputy commissioner.

17 * **Sec. 4.** AS 41.17.119 is repealed and reenacted to read:

18 **Sec. 41.17.119. Minimum riparian standards for other public land.** The
19 riparian standards for other public land are as follows:

20 (1) in Region I, harvest of timber may not be undertaken within 100
21 feet of an anadromous or high value resident fish water body;

22 (2) in Region II, the standards are the same as for state land under
23 AS 41.17.118(2)(A) - (F) and regulations adopted under this chapter;

24 (3) in Region III, the standards are the same as for state land under
25 AS 41.17.118(3) and regulations adopted under this chapter.

26 * **Sec. 5.** AS 41.17.950(21) is amended to read:

27 (21) "riparian area" means

28 (A) the areas subject to riparian protection standards in
29 AS 41.17.116(a) and (c) [AS 41.17.116(a) AND (b)] on private land in
30 Regions I and III;

31 (B) the area 150 feet from the shore or bank of a Type II-A

1 **or II-B water body, and 100 feet from the shore or bank of a Type II-C or**
 2 **II-D water body** [AREAS SUBJECT TO RIPARIAN PROTECTION
 3 STANDARDS IN REGULATIONS ADOPTED BY THE STATE
 4 FORESTER UNDER AS 41.17.116(c) ON PRIVATE LAND] in Region II;

5 (C) the area 100 feet from the shore or bank of an anadromous
 6 or high value resident fish water body on state land managed by the department
 7 and on other public land in Regions I and III;

8 * **Sec. 6.** AS 41.17.950 is amended by adding new paragraphs to read:

9 (34) "outer bend subject to erosion" means, in Region II, a stream bend
 10 that has a cut-bank and is opposite a point bar on the inner bend;

11 (35) "point bar" means, in Region II, a ridge or low mound of
 12 sediment, often sand or gravel, that has been deposited on the inside of a curve in a
 13 stream, where the water velocity is lower;

14 (36) "terrace" means, in Region II, a change in elevation greater than
 15 10 feet for Type II-A waters or greater than 20 feet for Type II-B waters, and that has
 16 a slope greater than 30 percent;

17 (37) "terrace top break" means, in Region II, the point at which the
 18 terrace slope changes to the lower angle slope of the adjacent upland; for purposes of
 19 measurement, the terrace top break is where the degree of slope is reduced by 20
 20 percent or more when measured away from the stream;

21 (38) "Type II-A water body" means, in Region II,

22 (A) a nonglacial stream greater than 50 feet wide that has
 23 anadromous or high value resident fish and that has an unconfined and
 24 dynamic channel; and

25 (B) typically has point bars, islands, scour planes, active or
 26 recent side channels, and areas of obvious bank erosion;

27 (39) "Type II-B water body" means, in Region II, a glacial stream that
 28 has anadromous or high value resident fish and that is not a glacial Type II-C water
 29 body;

30 (40) "Type II-C water body" means, in Region II, a water body that
 31 has anadromous or high value resident fish that

1 (A) is a nonglacial water body greater than three feet wide and
2 less than or equal to 50 feet wide at ordinary high water mark that has an
3 unconfined and dynamic channel;

4 (B) is a nonglacial water body greater than three feet wide at
5 ordinary high water mark that has a confined channel;

6 (C) is a reach of the Kenai River, Kasilof River, or Lake Fork
7 Crescent River greater than three feet wide at ordinary high water mark, or

8 (D) is a lake or pond;

9 (41) "Type II-D water body" means, in Region II, a nonglacial stream
10 or a reach of the Kenai River, Kasilof River, or Lake Fork Crescent River that is less
11 than or equal to three feet wide at ordinary high water mark that has anadromous or
12 high value resident fish.

13 * **Sec. 7.** This Act takes effect July 1, 2006.