

**SENATE BILL NO. 262**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/1/06

Referred: Resources, Finance

**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.