

SENATE CS FOR HOUSE BILL NO. 25(JUD) am S
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Amended: 4/10/08

Offered: 4/8/08

Sponsor(s): REPRESENTATIVES SEATON AND WILSON, Hawker, Ramras, Kelly, Guttenberg, Harris

SENATORS Stevens, McGuire, Dyson

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; relating to public recreational**
5 **use easements to allow use of land for recreational activity and prohibiting fees for**
6 **recording those easements; and providing for an effective date."**

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

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

9 **Sec. 09.65.202. Tort immunity for landowners' allowing recreational**
10 **activity; adverse possession.** (a) A landowner that allows a recreational activity on
11 the landowner's land without charge does not, by allowing that 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 applies only during the time that a landowner allows
11 recreational use under a recorded grant of a public recreational use easement as
12 required in AS 34.17.100.

13 (c) This section does not apply to a civil action

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

16 (2) that is based on intentional, reckless, or grossly negligent conduct
17 of the landowner.

18 (d) This section may not be construed to conflict with, nor does it have any
19 effect on, a liability release agreement between a participant in a recreational activity
20 and a landowner.

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

24 (f) In this section,

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

28 (A) consideration received by the landowner from the state or
29 political subdivision for land leased or dedicated to the state or political
30 subdivision;

31 (B) property tax relief in exchange for a landowner's agreement

1 to open land for a recreational activity; or

2 (C) a contribution in kind, service, or cash from a user if all of
3 the contribution is used to improve access or trails, to remedy or reduce
4 damage, to provide warning of a hazard, or to remove a hazard from the land;

5 (2) "land" includes private

6 (A) unimproved land;

7 (B) improved land, exclusive of buildings, structures,
8 machinery, or equipment on the land;

9 (C) ways or land subject to an easement or right-of-way;

10 (D) roads and trails;

11 (E) water and watercourses on or running through the land;

12 (3) "landowner" means a private person who owns land;

13 (4) "private person" has the meaning given in AS 09.55.240;

14 (5) "recreational activity" has the meaning given "sports or recreational
15 activity" in AS 09.65.290.

16 * **Sec. 2.** AS 34.17 is amended by adding a new section to read:

17 **Article 2. Public Recreational Use Easements.**

18 **Sec. 34.17.100. Public recreational use easements.** (a) A public recreational
19 use easement may be created for the purposes of AS 09.65.202 by recording the grant
20 of the easement in the recorder's office for the recording district where the land
21 affected by the easement is located. The grant of the public recreational use easement
22 must

23 (1) be on a form provided by the Department of Natural Resources;

24 (2) identify the land affected;

25 (3) set out restrictions, conditions, or reservations affecting the
26 easement, including terms addressing duration or termination of the easement, if any;
27 and

28 (4) state that the purpose of the easement is to make the land available
29 for public recreational activity.

30 (b) The easement granted under (a) of this section may be a conservation
31 easement under AS 34.17.010 - 34.17.060 (Uniform Conservation Easement Act).

1 * **Sec. 3.** AS 40.17.030(a) is amended to read:

2 (a) Except as provided in **(b), (c), and (e)** [(b) AND (c)] of this section, to be
3 eligible for recording, a document must

4 (1) contain original signatures;

5 (2) be legible or capable of being converted into legible form by a
6 machine or device used in the recording office;

7 (3) be capable of being copied by the method used in the recording
8 office;

9 (4) contain a title reflecting the overall intent of the document;

10 (5) contain the information needed to index the document under
11 regulations of the department;

12 (6) contain a book and page reference or serial number reference if the
13 document amends, corrects, extends, modifies, assigns, or releases a document
14 previously recorded in this state;

15 (7) contain the name and address of the person to whom the document
16 is to be returned after recording;

17 (8) if it is a deed, contain the mailing addresses of all persons named in
18 the document who grant or acquire an interest under the document;

19 (9) be accompanied by or contain the name of the recording district in
20 which it is to be recorded; and

21 (10) be accompanied by the applicable recording fee set by regulation;
22 if the document is to be recorded for multiple purposes, it must be accompanied by the
23 applicable fee for each of the multiple purposes.

24 * **Sec. 4.** AS 40.17.030 is amended by adding a new subsection to read:

25 (e) A recording fee may not be charged to record a public recreational use
26 easement under AS 34.17.100, and, notwithstanding (a)(10) of this section, the
27 easement shall be eligible for recording.

28 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 REVISOR'S INSTRUCTION. The revisor of statutes shall substitute "AS 34.17.010 -
31 34.17.060" for "this chapter" in AS 34.17.010 - 34.17.060 and shall substitute "AS 34.17.010

- 1 - 34.17.060" for "AS 34.17" in AS 29.45.062.
- 2 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).