

**HOUSE BILL NO. 242**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

**BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES**

**Introduced: 4/18/09**

**Referred: House Special Committee on Fisheries, Resources**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the protection of wild salmon, wildlife, water, and other resources in**  
2 **or near the Bristol Bay Fisheries Reserve and to large-scale mining in the headwaters of**  
3 **the Reserve."**

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

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

7 **LEGISLATIVE FINDINGS.** The legislature finds that

8 (1) Bristol Bay is a truly unique place with significant value to Alaska;

9 (2) one-third of the income from commercial salmon fishing in the state is  
10 produced from the unpolluted waters in the Bristol Bay area;

11 (3) the wild salmon of Bristol Bay and its watersheds

12 (A) have sustained the subsistence and cultural integrity of Alaska  
13 Natives for thousands of years;

14 (B) support a vital and growing sport fishing industry that provides

1 important statewide economic benefits to the state;

2 (4) in 1972, the legislature determined it was in the best interest of the state to  
3 provide heightened protection for the Bristol Bay area by designating an area within the  
4 Bristol Bay area as the Bristol Bay Fisheries Reserve; and

5 (5) the Bristol Bay Fisheries Reserve and its wild salmon and other  
6 extraordinary and unique resources are critical to Alaska's economic and social success and  
7 require additional protection.

8 \* **Sec. 2.** AS 38.05 is amended by adding a new section to read:

9 **Sec. 38.05.142. Limitations on large-scale mining in the headwaters of**  
10 **Bristol Bay.** (a) An authorization, license, permit, or approval for a plan of operation  
11 for a new large-scale metallic sulfide mining operation that may have a potential effect  
12 on the water within or flowing into or over the Bristol Bay Fisheries Reserve  
13 (AS 38.05.140(f)) or that may affect fish, wildlife, and other resources in or  
14 immediately adjacent to the Bristol Bay Fisheries Reserve may not be issued before  
15 the director completes the study required in (b)(1) and (c) of this section and meets the  
16 other requirements in (b) of this section.

17 (b) The director may not approve or issue any authorization, license, or permit  
18 or approve a plan of operation under (a) of this section before

19 (1) completing the baseline study required in (c) of this section;

20 (2) finding, based on the best available science and clear and  
21 convincing evidence, that

22 (A) the protection standards in (d) of this section are met and  
23 incorporated in the proposed authorization, license, permit, or approved plan of  
24 operation;

25 (B) management and treatment of waste produced by the large-  
26 scale metallic sulfide mine to prevent adverse effects on wild salmon or other  
27 fish or wildlife will not be necessary after the final shipment of products from  
28 the mining operation occurs;

29 (C) development and operation of the large-scale metallic  
30 sulfide mine will not directly, indirectly, or cumulatively have an adverse  
31 effect in the Bristol Bay Fisheries Reserve on

- 1 (i) wild salmon and other fish;
- 2 (ii) wildlife;
- 3 (iii) commercial, subsistence, or sport fishing; or
- 4 (iv) guiding and tourism activities;
- 5 (D) the planned operation of the large-scale metallic sulfide
- 6 mine will not degrade the quality of land and water resources;
- 7 (E) the land affected by the operation of the large-scale metallic
- 8 sulfide mine will be reclaimed;
- 9 (3) publishing findings and the decision to
- 10 (A) issue an authorization, license, permit, or approval for a
- 11 plan of operation not less than 180 days before an authorization, license,
- 12 permit, or approval for a plan of operation may be issued; or
- 13 (B) not issue an authorization, license, permit, or approval for a
- 14 plan of operation.
- 15 (c) A baseline study relating to the surface water and ground water, fish and
- 16 wildlife, and commercial uses in or adjacent to the Bristol Bay Fisheries Reserve that
- 17 could be affected by a proposed large-scale metallic sulfide mining operation must be
- 18 completed. The study must include data for not less than five years immediately
- 19 before the completion of the study, be based on the best available scientific
- 20 information, and include comprehensive analysis of
- 21 (1) hydrological conditions;
- 22 (2) water chemistry;
- 23 (3) geochemistry;
- 24 (4) genetic and stock distinctions for fish and wildlife;
- 25 (5) fish and wildlife habitat;
- 26 (6) water flows;
- 27 (7) seismic studies;
- 28 (8) socioeconomic use; and
- 29 (9) a detailed risk assessment of the likely economic damage to the
- 30 state and individuals as a result of harm to existing fisheries and other resources in the
- 31 Bristol Bay area that could reasonably result from mining activity and the storage of

1 mine tailings.

2 (d) The proposed authorization, permit, license, or approved plan of operation  
3 for a large-scale metallic sulfide mine subject to recommendation and approval in (a)  
4 of this section must include specific standards, terms, requirements, and other detailed  
5 conditions to

6 (1) prevent any adverse effects to ground and surface water;

7 (2) ensure that aquatic life standards are met in perpetuity; and

8 (3) ensure that wild salmon, including embryonic, rearing, migrating,  
9 reproducing, or overwintering life stages and their supporting food chains, and other  
10 fish and wildlife will not be diminished or adversely affected.

11 (e) Data or information collected or generated by an applicant or prospective  
12 applicant and related to an authorization, license, engineering plan, or permit related to  
13 a new large-scale metallic sulfide mining operation subject to (a) of this section must  
14 be provided to the director. The director shall make the data and other information  
15 received under this subsection available for public review at least twice a year in a  
16 manner that provides the public with an adequate opportunity for review and  
17 evaluation.

18 (f) The approval by the director and the findings and decision published under  
19 (b)(3) of this section

20 (1) must contain the concurrence and written findings of the  
21 commissioner of fish and game and the commissioner of environmental conservation,  
22 based on the requirements in (b)(2) of this section; and

23 (2) is the final administrative action for purposes of appeal to the  
24 superior court under AS 44.62.560 and 44.62.570; a person with social or economic  
25 interest in wild salmon or other resources in the Bristol Bay Fisheries Reserve has  
26 standing to seek judicial review of the recommended approval.

27 (g) In this section, "large-scale metallic sulfide mine" means a mine or mining  
28 operation that extracts metals, including gold and copper, from a sulfide-bearing rock  
29 and that would affect 640 or more acres of land and includes necessary logistical and  
30 support facilities required for any mine or mining operation, including roads, power  
31 transmission lines, and storage facilities.

1     \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3     **APPLICABILITY.** AS 38.05.142, enacted by sec. 2 of this Act, applies to a large-scale  
4 metallic sulfide mine that has not received all authorizations, licenses, permits, or approved  
5 plans of operation before the effective date of this Act. The requirements enacted by sec. 2 of  
6 this Act do not apply to any existing operating mines in the state, new mines that do not affect  
7 the waters or resources within the Bristol Bay Fisheries Reserve, or placer mining operations  
8 in the Bristol Bay area or any other area of Alaska.