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IN THE SENATE

BY JUDICIARY COMMITTEE

SENATE BILL NO. 249

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIRST LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act to protect fish, fish spawn, and spawning and rearing environment in all streams and rivers in Alaska by prohibiting certain activities; providing penalties; and providing for an effective date."

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

Section 1. FINDINGS OF FACT. The legislature finds and recognizes these facts:

(1) Industrial activities, including but not limited to logging, mining, and petroleum exploration and drilling, are often carried on near streams and rivers which support fish and other aquatic life.

(2) In the conduct of activities such as were mentioned in subparagraph (1) of this section, the use of heavy equipment in the stream or river beds is often convenient.

(3) The use or movement of heavy equipment in or upon the bed of any river or stream results in destruction of spawn in the gravel, disruption of the spawning environment, and pollution problems, all to the detriment or destruction of various classes of fishes.

Sec. 2. DEFINITIONS.

(1) "Heavy equipment": any device, including but not limited to, tractors, draglines, trucks, and power shovels.

(2) "Rivers" or "streams": any water course having

1 a source and terminus, banks, and channel, through which waters  
2 flow at least periodically.

3 (3) "Person": the singular or the plural, including  
4 individuals, associations, partnerships, or corporations unless  
5 the context otherwise requires.

6 Sec. 3. CERTAIN ACTS UNLAWFUL. It shall be unlawful,  
7 except as otherwise permitted by this Act, for any person to  
8 operate, use, move or transport any heavy equipment in or upon  
9 the bed of any river or stream; provided, however, that this  
10 section shall not apply to any person who has first obtained a  
11 permit as provided in section 4 of this Act.

12 Sec. 4. PERMIT REQUIRED. As a condition precedent to the  
13 operation, use or movement of any heavy equipment in or upon the  
14 bed of any river or stream in Alaska it is necessary to secure  
15 a permit from the Commissioner of the Alaska Department of Fish  
16 and Game or his designee. Every request for such permit shall  
17 be accompanied by a statement defining the area involved, geo-  
18 graphical names of streams or rivers, where named, the type of  
19 operation contemplated and the period for which the proposed  
20 activity will be prosecuted. Any permit issued pursuant to this  
21 section may, in the discretion of the commissioner or his  
22 authorized designee, contain limitations and restrictions.  
23 Absolute prohibition through refusal to issue a permit is auth-  
24 orized if, in the reasonable opinion of the commissioner or his  
25 designee, the activity sought to be prosecuted cannot be allowed  
26 without excessive damage.

27 Sec. 5. PENALTIES. Any person who violates sections 3 or  
28 4 of this Act is guilty of a misdemeanor and shall be punished by  
29 a fine not to exceed \$5,000.00 or imprisonment for not more than

1 one year or both.

2       Sec. 6. SECTIONS NOT AFFECTED. Nothing in this Act shall  
3 be construed to alter or amend any of the provisions of sections  
4 30 and 31, Article I, Ch. 94, SLA 1959.

5       Sec. 7. EFFECTIVE DATE. This Act takes effect on the day  
6 after its passage and approval or on the day it becomes law  
7 without such approval.

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