

BY MESSRS. CHAPADOS,
TAYLOR AND STRANDBERG

1 IN THE HOUSE

2 HOUSE BILL NO. 405

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the Fish and Game Code
7 regarding use of streams, rivers, and lakes;
8 and providing for an effective date."

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

10 Section 1. Sec. 31, Art. I, Ch. 94, SLA 1959, as amended by
11 Sec. 1, Ch. 180, SLA 1960, is amended to read:

12 Sec. 31. PROTECTION OF FISH AND GAME. The Commissioner
13 shall, in accordance with the Administrative Procedure Act
14 specify the various rivers, lakes and streams or parts there-
15 of that are important for the spawning or migration of
16 anadromous fish. In the event that any person or governmental
17 agency desires to construct any form of hydraulic project or
18 [TO USE ANY EQUIPMENT THAT WILL] use, divert, obstruct,
19 pollute or change the natural flow or bed of any such speci-
20 fied river, lake or stream or to use [, EXCEPT FOR THE
21 PURPOSE OF CROSSING A RIVER OR STREAM AT AN ESTABLISHED
22 CROSSING,] any wheeled, tracked or excavating equipment or
23 log dragging equipment in the bed of any such specified river,
24 lake or stream [CONTAINING ANADROMOUS FISH OR THAT WILL
25 UTILIZE ANY OF THE WATERS OF THE STATE OR MATERIALS FROM ANY
26 RIVER, LAKE OR STREAM BEDS], such person or governmental
27 agency shall notify the Commissioner of such intention prior
28 to the commencement of construction or act, and the Commis-
29 sioner shall acknowledge receipt of such notice by return

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1 air mail. If the Commissioner so determines, he shall, in
2 said letter of acknowledgement, require such person or
3 governmental agency to [OR] submit to him full plans and
4 specifications of the proposed construction or work, complete
5 plans and specifications for the proper protection of fish
6 and game in connection therewith, or in connection with such
7 act, and the approximate date when such construction, [OR]
8 work or act is to commence, and, in such case, shall require
9 such person or governmental agency to obtain the written
10 approval of the Commissioner as to the sufficiency of such
11 plans or specifications before the proposed construction or
12 act is commenced. If, in such case, any person or govern-
13 mental agency commences construction on any such works or
14 projects or commences any such act without first providing
15 plans and specifications subject to the approval of the
16 Commissioner for the proper protection of fish and game in
17 connection therewith and without first having obtained
18 written approval of the Commissioner as to the adequacy of
19 such plans and specifications submitted for the protection of
20 fish and game, he is guilty of a misdemeanor. If any [SUCH]
21 person or governmental agency be convicted of violating any
22 of the provisions of this section or [AND] continues
23 [CONSTRUCTION ON] any act, [SUCH] work or projects without
24 fully complying with the provisions hereof, such act, works
25 or projects are hereby declared a public nuisance and shall
26 be subject to abatement as such. The cost of restoring any
27 such specified river, lake or stream to its original condition
28 shall be borne by the violator and shall be in addition to
29 any penalty imposed by the court.

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Provided, that in case of an emergency arising from weather or stream flow conditions, the Department, through its authorized representatives, shall issue oral permits to a riparian owner for removing any obstructions or for repairing existing structures without the necessity of submitting prepared plans and specifications.

Should a person or governmental agency fail to notify the Commissioner of any construction or act that causes material damage to the spawning beds or prevents or interferes with the migration of anadromous fish, or who, by neglect or non-compliance with plans and specifications required and approved by the Commissioner, causes material damage to the spawning beds or prevents or interferes with the migration of anadromous fish, such person or governmental agency shall be guilty of a misdemeanor.

Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.