

Original sponsor: Orsini, Bradley,
Colletta, et al

Offered: 5/9/75
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR 2dCS FOR SENATE BILL NO. 215

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to navigable or public waters."

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

8 * Section 1. INTENT. It is the intent of this Act to implement the
9 provisions of art. VIII, sec. 14, Alaska State Constitution, relating to
10 access to the navigable or public waters of the state.

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

12 Sec. 38.05.127. ACCESS TO NAVIGABLE OR PUBLIC WATERS. (a)

13 Before the sale, lease, grant, or other disposal of any interest in
14 state land adjacent to a body of water or waterway, the Department of
15 Natural Resources shall

16 (1) under regulations, determine if the body of water or
17 waterway is navigable water, public water, or neither;

18 (2) upon finding that the body of water or waterway is navi-
19 gable or public water, provide for specific easements or rights-of-way,
20 or both, reasonably necessary to insure free access to and along the
21 body of water, unless the department finds that regulating or limiting
22 access is necessary for other beneficial uses or public purposes.

23 (b) The Department of Natural Resources shall adopt regulations
24 implementing this section.

25 (c) Nothing in this section affects valid existing rights.

26 * Sec. 3. AS 38.05.345 is amended by adding a new subsection to read:

27 (d) Where the lands involved are adjacent to a body of water or
28 waterway which the department has not previously determined to be navi-
29 gable or public, or not navigable or public, the notice shall state that

1 such a determination is to be made.

2 * Sec. 4. AS 38.05.365 is amended by adding new paragraphs to read:

3 (22) "navigable waters" means any water of the state forming a
4 river, stream, lake, pond, slough, creek, bay, sound, estuary, inlet,
5 strait, passage, canal, sea or ocean, or any other body of water or
6 waterway within the territorial limits of the state or subject to its
7 jurisdiction, that is navigable in fact for any useful public purpose,
8 including but not limited to water suitable for commercial navigation,
9 floating of logs, landing and takeoff of aircraft, and public boating,
10 trapping, hunting waterfowl and aquatic animals, fishing, or other
11 public recreational purposes;

12 (23) "public waters" means navigable water and all other
13 water, whether inland or coastal, fresh or salt, that is reasonably
14 suitable for public use and utility, habitat for fish and wildlife in
15 which there is a public interest, or migration and spawning of fish in
16 which there is a public interest.