

Offered: 4/16/85
Referred: Rules

Original sponsors: Cotten, Shultz,
M.W.Miller, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

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CS FOR HOUSE BILL NO. 316 (Finance) am

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the navigable or public waters of
7 the state; and providing for an effective date."

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

9 * Section 1. AS 38.05 is amended by adding a new section to read:

10 Sec. 38.05.126. PUBLIC RIGHTS TO NAVIGABLE OR PUBLIC WATER. (a)

11 The natural resources and the natural scenic beauty of the state are a
12 public right, and the people of the state have a vested right in the
13 preservation, protection, and enjoyment of all of the navigable or
14 public water of the state in its present state and in the use of the
15 water for recreational and other public purposes.

16 (b) The state has full power and control of all of the navigable
17 or public water of the state, both meandered and unmeandered, and it
18 holds and controls all navigable or public water in trust for the use
19 of the people of the state.

20 (c) Ownership of land bordering navigable or public water does
21 not grant an exclusive right to the use of the water and any rights of
22 title to the land below the ordinary high water mark are subject to
23 the rights of the people of the state to use and have access to the
24 water for recreational purposes or any other public purpose for which
25 the water is used or capable of being used consistent with the public
26 trust.

27 (d) This section may not be construed to affect or abridge valid
28 existing rights.

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

1 Sec. 38.05.128. OBSTRUCTIONS TO PUBLIC WATER. (a) A person may
2 not obstruct or interfere with the free passage or use of any navi-
3 gable or public water of the state unless the commissioner, after
4 reasonable public notice, specifically authorizes the obstruction or
5 interference.

6 (b) A violation of (a) of this section is a class A misdemeanor.

7 (c) An unauthorized obstruction or interference is a public
8 nuisance and is subject to abatement. The cost of abatement shall be
9 borne by the violator and is in addition to any penalty imposed by the
10 court.

11 (d) This section may not be construed to affect or abridge valid
12 existing rights.

13 * Sec. 3. AS 38.05.127(c) is repealed and reenacted to read:

14 (c) Nothing in this section affects valid existing rights or
15 limits in any way the constitutional right of the public to use and
16 have free access to the navigable or public water of the state.

17 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).