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5-0339A

1 IN THE HOUSE

BY MILLER, BOYER, SHULTZ,
FRANK AND ZAWACKI

2 HOUSE BILL NO. 109

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the use of water."

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

8 * Section 1. AS 16.05.050 is amended by adding a new subsection to
9 read:

10 (b) The commissioner may not require a higher discharge quality
11 for water used than the quality of water received for the use.

12 * Sec. 2. AS 38.05.020 is amended by adding a new subsection to read:

13 (c) The commissioner may not require a higher discharge quality
14 for water used than the quality of water received for the use.

15 * Sec. 3. AS 46.03 is amended by adding a new section to read:

16 Sec. 46.03.892. REGULATION OF THE USE OF WATER. (a) When
17 considering the discharge of water and establishing regulations for
18 the quality of discharged water, the commissioner may require a person
19 who uses water to meet a discharge standard that is compatible with
20 immediate downstream use. Except where the immediate downstream use
21 is a public or private drinking water supply, the turbidity require-
22 ments of the discharge water shall reflect a range of values that are
23 satisfactory for other downstream use but may not be more restrictive
24 than federal standards.

25 (b) The commissioner may not require a higher discharge quality
26 standard for water than the quality of water received for the use.

27 * Sec. 4. AS 46.15 is amended by adding a new section to read:

28 Sec. 46.15.045. SMALL SCALE USE OF WATER. A person may use less
29 than a significant amount of water without a permit unless the

1 commissioner determines under AS 46.15.080(b) that the use of less
2 than a significant amount of water without a permit is not in the
3 public interest. A person using less than a significant amount of
4 water without a permit acquires no water right or priority unless an
5 application is filed and a permit or certificate is issued under
6 AS 46.15.030 - 46.15.185.

7 * Sec. 5. AS 46.15.133(f) is amended to read:

8 (f) The commissioner may, by regulation, designate additional
9 types of appropriations that [WHICH] are exempt from this section and
10 provide simplified procedures for ruling on the applications.

11 * Sec. 6. AS 46.15.133 is amended by adding a new subsection to read:

12 (g) An application to appropriate not more than 1,000 gallons of
13 water a day is exempt from the notice provisions of this section
14 except that the commissioner shall notify the Department of Fish and
15 Game of each application to appropriate water from a stream designated
16 under AS 16.05.870. Notwithstanding this subsection, the commissioner
17 may require public notice under this section

18 (1) on a determination that the total amount of water
19 available in an area is limited considering the number of potential
20 users from the source of the water; or

21 (2) on request of the municipality in which the area is
22 located.

23 * Sec. 7. AS 46.15.260 is amended to read:

24 Sec. 46.15.260. DEFINITIONS. In this chapter, unless the con-
25 text otherwise requires,

26 (1) "appropriate" means

27 (A) to divert, impound, or withdraw a quantity of
28 water from a source of water, for a beneficial use; or

29 (B) to reserve water under [IN ACCORDANCE WITH]

1 AS 46.15.145;

2 (2) "appropriation" means

3 (A) the diversion, impounding, or withdrawal of a
4 quantity of water from a source of water for a beneficial use; or

5 (B) the reservation of water under [IN ACCORDANCE
6 WITH] AS 46.15.145;

7 (3) "beneficial use" means a use of water for the benefit
8 of the appropriator, other persons or the public, that is reasonable
9 and consistent with the public interest, including, but not limited
10 to, domestic, agricultural, irrigation, industrial, manufacturing,
11 fish and shellfish processing, navigation and transportation, mining,
12 power, public, sanitary, fish and wildlife, recreational uses, and
13 maintenance of water quality;

14 (4) "source of water" means a substantial quantity of water
15 capable of being put to beneficial use;

16 (5) "water" means all water of the state, surface and
17 subsurface, occurring in a natural state, except mineral and medicinal
18 water;

19 (6) "commissioner" means the commissioner of natural re-
20 sources;

21 (7) "director" means the director of land and water manage-
22 ment [THE DIVISION OF LANDS], Department of Natural Resources;

23 (8) "person" includes an individual, partnership, asso-
24 ciation, public or private corporation, state agency, municipality
25 [POLITICAL SUBDIVISION] of the state, and the United States; [.]

26 (9) "mineral and medicinal water" means

27 (A) water of a hot spring or spring with curative
28 properties that [WHICH] has been reserved by the federal govern-
29 ment under Public Land Order No. 399; and

1 (B) geothermal fluid, as [THE TERM IS] defined in
2 AS 41.06.060;

3 (10) "significant amount of water" means

4 (A) a use of more than 5,000 gallons of water in a
5 single day from a single source; or

6 (B) the regular daily or recurring seasonal use of
7 more than 500 gallons of water a day for 10 days or more a year
8 from a single source; or

9 (C) a water use that may adversely affect the water
10 rights of another appropriator or the public interest.

11 * Sec. 8. AS 16.05.050(b), AS 38.05.020(c), and AS 46.03.892, enacted
12 by secs. 1 - 3 of this Act, are repealed on the date the state assumes
13 responsibility for the pollutant discharge elimination program authorized
14 by sec. 402 of the Act of June 30, 1948, 33 U.S.C. 1342.