

Introduced: 3/8/89  
Referred: Resources

6-0965A

1 IN THE HOUSE

BY DAVIDSON, GOLL, AND JACKO

2

HOUSE BILL NO. 210

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the reservation of instream flows  
7 in water important for fish; and providing for an  
8 effective date."

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

10 \* Section 1. AS 46.15 is amended by adding a new section to read:

11 Sec. 46.15.146. RESERVATION OF INSTREAM FLOWS FOR FISH. (a)  
12 Except as provided in (b) and (c) of this section, upon receipt by the  
13 commissioner of an application to appropriate water from a river,  
14 lake, or stream that is important for the spawning, incubation, rear-  
15 ing, or migration of fish, the commissioner shall reserve an instanta-  
16 neous flow in the river, lake, or stream for the instream use of fish  
17 and to maintain existing habitat for fish. For the months of April  
18 through October, the commissioner shall reserve an instantaneous flow  
19 of at least 60 percent of the mean annual flow of the river, lake, or  
20 stream. For the months of November through March, the commissioner  
21 shall reserve at least 30 percent of the mean annual flow of the  
22 river, lake, or stream. An instantaneous flow reserved under this  
23 section is withdrawn from out-of-stream appropriation.

24 (b) Notwithstanding (a) of this section, if the commissioner is  
25 prevented from reserving the percentage of the mean annual flow re-  
26 quired under (a) of this section because of the existence of a right  
27 to appropriate acquired before the effective date of this Act, the  
28 commissioner shall reserve all of the instream flow that is available  
29 for reservation.

1           (c) Notwithstanding (a) of this section, the commissioner may,  
2           on the basis of an analysis of data obtained from an instream flow  
3           study, adjust the quantity of water or the percentage of mean annual  
4           flow of a river, lake, or stream required to be reserved under (a) of  
5           this section, if the adjustment maintains or improves existing habitat  
6           for fish.

7           (d) The priority date of a reservation of water under this  
8           section is the effective date of this Act. A reservation of water  
9           under this section does not affect rights in existence on the effec-  
10          tive date of this Act.

11         \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).