

## HOUSE BILL NO. 286

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE CARNEY

Introduced: 4/20/93

Referred: House Special Committee on Fisheries, Resources, Judiciary, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to certain activities within rivers, lakes, and streams that are  
2 important for spawning, rearing, or migration of anadromous fish."

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

4 \* Section 1. AS 16.05.870 is amended by adding a new subsection to read:

5 (e) The commissioner may by regulation exempt a portion of a specified river,  
6 lake, or stream from (b) - (d) of this section if that portion is used as a crossing or  
7 ford to provide access across the river, lake, or stream for management or utilization  
8 of upland resources.

9 \* Sec. 2. AS 16.05.880 is amended to read:

10 Sec. 16.05.880. CONSTRUCTION WITHOUT APPROVAL PROHIBITED.  
11 Δ [IF A] person or governmental agency may not begin [BEGINS] construction on  
12 a work or project or use for which notice is required by AS 16.05.870 without first  
13 providing plans and specifications subject to the approval of the commissioner for the  
14 proper protection of fish and game, and without first having obtained written approval

1 of the commissioner as to the adequacy of the plans and specifications submitted for  
2 the protection of fish and game [, THE PERSON OR AGENCY IS GUILTY OF A  
3 MISDEMEANOR. IF A PERSON OR GOVERNMENTAL AGENCY IS  
4 CONVICTED OF VIOLATING AS 16.05.870 - 16.05.895 OR CONTINUES A USE,  
5 WORK OR PROJECT WITHOUT FULLY COMPLYING WITH AS 16.05.870 -  
6 16.05.895, THE USE, WORK, OR PROJECT IS A PUBLIC NUISANCE AND IS  
7 SUBJECT TO ABATEMENT. THE COST OF RESTORING A SPECIFIED RIVER,  
8 LAKE, OR STREAM TO ITS ORIGINAL CONDITION SHALL BE BORNE BY  
9 THE VIOLATOR AND SHALL BE IN ADDITION TO THE PENALTY IMPOSED  
10 BY THE COURT].

11 \* Sec. 3. AS 16.05.895 is amended to read:

12 Sec. 16.05.895. [PENALTY FOR] CAUSING MATERIAL DAMAGE  
13 PROHIBITED. A [. IF A] person or governmental agency may not

14 (1) fail [FAILS] to notify the commissioner of any construction or use  
15 that causes material damage to the spawning beds or prevents or interferes with the  
16 migration of anadromous fish; [,] or

17 (2) by neglect or noncompliance with plans and specifications required  
18 and approved by the commissioner, cause [CAUSES] material damage to the spawning  
19 beds or prevent or interfere [PREVENTS OR INTERFERES] with the migration of  
20 anadromous fish [, THE PERSON OR GOVERNMENTAL AGENCY SHALL BE  
21 GUILTY OF A MISDEMEANOR].

22 \* Sec. 4. AS 16.05.900 is repealed and reenacted to read:

23 Sec. 16.05.900. PENALTY FOR VIOLATIONS OF AS 16.05.870 - 16.05.895.

24 (a) A person or governmental agency who intentionally, knowingly, or recklessly  
25 violates AS 16.05.870 - 16.05.895 is guilty of a class A misdemeanor.

26 (b) A person or governmental agency who with criminal negligence or without  
27 a culpable mental state violates AS 16.05.870 - 16.05.895 is guilty of a class B  
28 misdemeanor.

29 (c) If a person or governmental agency violates AS 16.05.870 - 16.05.895 or  
30 continues a use, work, or project without fully complying with AS 16.05.870 -  
31 16.05.895, the use, work, or project is a public nuisance and is subject to abatement.

1       **The cost of restoring a specified river, lake, or stream to its original condition shall be**  
2       **borne by the violator and shall be in addition to the penalty imposed by the court.**

3               **(d) The court shall transmit the proceeds of all fines to the proper state officer**  
4       **for deposit in the general fund of the state.**

5               **(e) In this section, "intentionally," "knowingly," "recklessly," and "criminal**  
6       **negligence" have the meanings given in AS 11.81.900.**