

SENATE BILL NO. 178

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced: 3/31/93
Referred: JUDICIARY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil nuisance actions; and providing for an effective date."

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

3 * Section 1. AS 09.45.230 is repealed and reenacted to read:

4 Sec. 09.45.230. ACTION BASED ON NUISANCE. (a) A person may bring
5 a civil action to enjoin or abate a nuisance. Damages may be awarded in the action.

6 (b) A person may not maintain an action under this section if the occupation,
7 structure, or act, including an emission or discharge, that is the subject of the action
8 is authorized by

9 (1) a statute or regulation;

10 (2) a license, permit, or other document issued by the state or federal
11 government; or

12 (3) a court order or decision.

13 (c) Notwithstanding other provisions of law, except AS 03.30.030,
14 AS 09.50.170 - 09.50.240, AS 19.25.080 - 19.25.180, and AS 19.27, a person may not

1 bring a civil action to enjoin or abate a nuisance or to recover damages for a nuisance
2 unless the action is authorized by this section.

3 (d) In this section, "person" includes the state and a political subdivision of the
4 state.

5 * Sec. 2. AS 09.45 is amended by adding a new section to article 4 to read:

6 Sec. 09.45.255. DEFINITION. In AS 09.45.230 - 09.45.255, "nuisance" means
7 a substantial and unreasonable interference with the use or enjoyment of real property,
8 including water.

9 * Sec. 3. This Act applies to an action if judgment has not been entered in the action
10 before the effective date of this Act, and to that extent this Act is retroactive under
11 AS 01.10.090.

12 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).