

**CS FOR SENATE BILL NO. 178(JUD) am(efd fld)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE JUDICIARY COMMITTEE

**Amended: 4/19/93
Offered: 4/13/93**

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil nuisance actions."

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 AS 09.45.230 is repealed and reenacted to read: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 PRIVATE NUISANCE. (a) A person
5 may bring a civil action to enjoin or abate a private nuisance. Damages may be
6 awarded in the action.

7 (b) A person may not maintain an action under this section if the occupation,
8 structure, or act, including an emission or discharge but excluding the placement of
9 nuclear waste, that is the subject of the action is authorized by and is not in violation
10 of a term or condition of

11 (1) a statute or regulation;

12 (2) a license, permit, or order issued after public hearing by the state
13 or federal government; or

14 (3) a court order or decision.

15 (c) The provisions of (b) of this section do not apply to actions regarding a

1 nuisance in an area zoned as residential by a city, borough, or municipality regarding
2 view, odor, or noise.

3 (d) Notwithstanding other provisions of law, except AS 09.50.170 - 09.50.240
4 and AS 19.25.080 - 19.25.180, a person may not bring a civil action to enjoin or abate
5 a private nuisance or to recover damages for a private nuisance unless the action is
6 authorized by this section.

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

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

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