

HB

636



Official Business

Alaska State Legislature

Senate

Committee on Resources

April 18, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

Passed

TO: Senate Resource Committee Members
FROM: Jens Zehbe, Staff Member
REGARDING: Committee Substitute for House Bill 636

This bill amends the Amusement and Sports section of the Alaska statutes by the addition of the following:

Any person in the water using an underwater breathing device may:

- 1) Display a 12"X 12" red flag with a white diagonal stripe.
- 2) Be affixed to the boat or on a float device and extend at least 3 feet from the water.

I shall:

- 3) Be at or near the divers point of submergence and the diver is to remain within 100 feet of the flag while underwater.
- 4) Warn boat operators above water and within sight of the flag, to stay 100 feet away from the flag and slow to no-wake speed or 5 miles per hour.

There is no fiscal impact.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 636
 Title "An Act requiring flags for divers."
 Requested by Rep. Parker Date 2/13/80

II. FISCAL DETAIL

Agency Affected Public Safety
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 BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
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GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No fiscal impact is projected.

IV. DATE February 13, 1980 PREPARED BY *M. Clemens*
Mike Clemens
 AGENCY Public Safety
 PHONE 465-4530
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER _____

DEPARTMENT _____

ATTENTION Senator Sumner

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input checked="" type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information |

Remarks:

FROM:
MAIL STATION NUMBER _____

DEPARTMENT _____

BY Don Bennett DATE 4/11

02-002 (REV.10/73)



Introduced: 1/29/80
Referred: Community &
Regional Affairs

1 IN THE HOUSE

BY PARKER AND MARTIN

2 HOUSE BILL NO. 636 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act ^{relating to} requiring flags for divers."

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

8 * Section 1. AS 05.25 is amended by adding a new section to read:

9 Sec. 05.25.012. DIVER'S FLAG. A person who is in the water using
10 an underwater breathing device ^{MAY} ~~shall~~ display a diver's flag constructed
11 of rigidly supported material at least 12 inches by 12 inches in area of
12 red background with a white diagonal stripe. This diver's flag ^{MAY} ~~shall~~ be
13 displayed on a boat or surface float and ^{MAY} ~~shall~~ extend a minimum distance
14 of three feet from the surface of the water. The diver's flag ^{MAY} ~~shall~~ be
15 placed at or near the point of submergence and constitutes a warning
16 that a diver is submerged and may be within 100 feet of the flag. A
17 diver shall remain within 100 feet of the diver's flag while at or near
18 the surface. A boat operator within sight of a diver's flag shall
19 proceed with caution, steering clear of the flag by a distance of 100
20 feet. Boats maneuvering within a 100-foot radius of a diver's flag
21 shall be slowed to no-wake speeds or five miles per hour, whichever is
22 necessary to maintain steerage in the seaway. A diver's flag shall be
23 displayed only while diving operations are underway.

24
25 *replace "shall" with "May"*
26
27
28
29



NEVAQUEST



АЛЯСКА КОМИТЕТ ИССЛЕДОВАТЬ КОРАБЛЕКРУШЕНИЕ ФРЕГАТА НЕВЫ

Dennis A. Cowals
P.O. Box 1044
Anchorage, AK 99510
907/344-4157

Jon B. Jolly, Inc.
5416 California Ave. S.W.
Seattle, WA 98136
206/938-4166

F.F. Wright, Ph.D.
P.O. Box 537
Douglas, AK 99824
907/364-2213

16 April 1980

Senator Bill Sumner
Chairman, Senate Resources Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Sumner:

Your Resources Committee currently has before it HB 636 am, "An Act requiring flags for divers." At a recent hearing, the bill was passed over because of the objections of Senator Don Bennett. I was able to meet with Senator Bennett last week during a business trip to Juneau and we were able to resolve the differences on the measure.

Fortunately for us divers, Senator Bennett became concerned about the language "requiring" flags and then dictating that divers "shall" do this or that. He was concerned that the present language would change what was designed as a safety measure into an enforcement statute. In the course of our discussion, I realized why he was objecting to the bill in the form approved by the House.

After working through the measure and considering the possible effects on sport and commercial divers, in both fresh and salt water, I acceded to Senator Bennett's proposed changes in language. They are:

- changing the title from "An Act requiring flags for divers," to "An Act relating to flags for divers," and;
- substituting the word "may" for the word "shall" in lines 10, 12, 13 and 14.

These changes rightfully place the burden of responsibility on the divers themselves; if they display the flag, then they may expect boaters to steer clear. Otherwise, boat operators would be absolved of any legal responsibility. At the same time, these alterations will not create any new and potentially costly enforcement burden for the state.

I hope you and your committee will approve the measure, and further that you will work to secure its passage in the Senate on behalf of your diver constituents. Nevaquest, by the way, is our working group for underwater archaeology. We are actively seeking two historic Russian wrecks in Alaskan waters at this time. Thank you for your help.

Sincerely,

Dennis A. Cowals
Director, Nevaquest

March 21, 1980

Senator Bill Sumner
Senate Resources Commission
2216 Culver Place
Anchorage, Alaska 99503

Dear Senator Sumner:

I am writing on behalf of a newly formed group, Southeast Alaska Underwater Council, based here in Ketchikan. Our main objectives lie in the safety and well being of divers here in Alaska.

House Bill number 636 should be supported and passed. Alaska is one of the only states in the United States of America that does not legally recognize the sport divers' red flag with a white diagonal stripe. The "divers down" flag is the only practical way of warning boaters of diving activities. As more and more Alaskans participate in diving, steps such as house bill 636 need to be enacted to insure safety in this rapidly developing area.

On behalf of the Southeast Alaska Underwater Council and the diving community at large, I thank you for your anticipated support and concern for divers' safety.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dianne Little".

Dianne Little

cc: Senator Bob Mulcahy
Senator Bob Ziegler

DL:lc

SYNOPSIS- HB 636am by Parker and Martin

An Act requiring flags for divers

The bill amends the Amusement and Sports section of the Alaska statutes by the addition of the following:

Any person in the water using an underwater breathing device shall:

- 1) Display a 12"x12" red flag with a white diagonal stripe.
- 2) It will extend at least 3 feet from the water and be affixed to the boat or on a float device.
- 3) It will be at or near the divers point of submergence and the diver should remain within 100 feet of the flag while underwater.
- 4) It will warn boat operators above water to stay 100 feet away from the flag and slow to no-wake speed or five miles per hour.

at the flag

and with sight of the flag

within sight

Bill-

CASHB 636 is on today's calendar. It's the divers flag bill which says a diver may display a warning flag while underwater. Once he decides to display it, he will be at the point of submergence and he is to stay within 100 feet of the flag. All boat operators will stay 100 feet away from the flag and slow to no-wake speed or 5miles per hour.

The original bill required all divers to display such a flag but Senator Bennett objected to that hence he met with someone from the Divers Association and worked out the Committee Substitute. There was no opposition to the bill from divers or the Department of Public Safety.

HB 636 am

2/29 Called Public safety left message
with Mike Clemmons - requesting fiscal note
rps - will send copy of fiscal note

rps - Called Parkers office



Official Business

Alaska State Legislature

Senate

Committee on Resources

March 12, 1980

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Resource Committee Members
FROM: Jens Zehbe, Staff Member
REGARDING: HB 636am

This bill amends the Amusement and Sports section of the Alaska statutes by the addition of the following:

Any person in the water using an underwater breathing device

~~shall~~

may.

1) Display a 12"X 12" red flag with a white diagonal stripe.

2) ~~It will extend~~ at least 3 feet from the water and ~~will~~ be affixed to the boat or on a float device. *and extend*

3) It will be at or near the divers point of submergence and the diver is to remain within 100 feet of the flag while underwater.

4) ~~It will~~ warn boat operators above water and within sight of the flag, to stay 100 feet away from the flag and slow to no-wake speed or 5 miles per hour.

There is no fiscal impact

Introduced: 1/29/80
Referred: Community &
Regional Affairs

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13 displayed on a boat or surface float and shall extend a minimum distance
14 of three feet from the surface of the water. The diver's flag shall be
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21 shall be slowed to no-wake speeds or five miles per hour, whichever is
22 necessary to maintain steerage in the seaway. A diver's flag shall be
23 displayed only while diving operations are underway.

24
25 *100 ft radius*
26
27 *venter dredge.*

28 *2 Jun 48*
29 *74*

DIVERS FLAG LEGISLATION

Briefing paper for an act:

"An Act requiring flags for divers"

By Parker and Martin

Eleventh Legislature - Second Session

Every month, diver training programs in Anchorage, Fairbanks, Juneau, Sitka, Ketchikan and elsewhere are certifying an average of 50 new divers. Given the seasonal variation in interest, it's safe to say 500 or more divers are certified every year around the state.

And why not? With more miles of coastline than the other states combined, Alaska offers the underwater explorer a richness and variety of marine life found nowhere else in the U.S. The tropics are the deserts of the sea. The real riches -- as in commercial fishing -- are to be found in the high latitudes, north and south.

While there are no statistical data to confirm or refute what follows, the consensus among diving instructors puts the total number of certified divers living in Alaska in the five figure bracket. Although the guesses vary, the number of qualified -- not necessarily active -- divers in the state could easily be 20,000 or more; 10,000, certainly, is a credible number. And, it's a number that equals or exceeds the number of boats berthed in coastal harbors around the state.

DIVERS FLAG LEGISLATION
Briefing paper/2

So far, there have not been any diver-boat accidents. But, the growing numbers of divers and the growth of the recreational fleet state-wide raise the likelihood of such an occurrence from a possibility to a probability. At present, very few divers use the divers flag, saying either that the boaters do not know what it means, or that there are so few boats that the risks are minimal. Boaters, likewise, are generally unfamiliar with the ensign although its meaning is covered in Coast Guard boater safety courses.

In other states, the campaign for the adoption and recognition of the divers flag has used photographs showing the hideous pattern of propeller slashes across the back or side of an accident victim. Unless this legislation is adopted and a vigorous information campaign is launched such photographs could appear in the Alaskan press. Simply put, the growing numbers of divers and boaters using the same waters makes it mandatory that the divers flag be adopted and recognized as a warning that people are submerged and that boaters should steer clear of the area.

The onus is not on the divers or the boaters; the responsibility is mutual. Divers must display the flag if they want boaters to avoid the area in which they are diving. And boaters, no less than motor vehicle operators seeing a stop sign, must come to recognize the divers flag as an accepted warning symbol, as appropriate in Alaska's oceanic and lake environments as the stop sign is in every community.

Alaska is one of 13 states which as yet have not formally adopted or recognized the divers flag. All of the others have adopted or formulated some regulations defining conditions for its display and response by boaters. While specifics vary from state to state, most

DIVERS FLAG LEGISLATION
Briefing paper/3

Therefore, the recommended draft legislation covering the use and display of the divers flag in Alaska calls for 150 feet of boater clearance and no-wake speeds. Hopefully, its enactment will prevent needless tragedy in Alaska waters.

FISCAL NOTE

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III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No fiscal impact is projected.

IV. DATE February 13, 1980 PREPARED BY *Mike Clemens*
 AGENCY Public Safety
 PHONE 465-4336
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)



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23 displayed only while diving operations are underway.

24
25 *Replace shall with may*
26
27
28
29

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