

HB

415

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 415
 (H) Publish Date: 3/24/06

Revision Date/Time (Note if correction): 3/20/06 - 8:55 a.m. Dept. Affected: Administration
 Title: An act relating to landowners' immunity RDU: Risk Management
for allowing recreational activity Component: Risk Management
 Sponsor: Representative Seaton
 Requester: (H) RES Component No.: 71

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Risk Management is not affected by this legislation.

"Land" and "landowner" as specifically defined within this proposed legislation is limited to private not public ownership - therefore there is no application to state lands and agency operations covered by the Risk Management self insurance program.

Prepared by: J. Brad Thompson, Director Phone 465-5723
 Division: Risk Management Date/Time 3/20/06 - 3:55 a.m.
 Approved by: Michael Tibbles, Deputy Commissioner Date 3/20/2006
 Agency: Administration

ALASKA STATE LEGISLATURE

Chair
STATE AFFAIRS

Member
RESOURCES

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
WAYS AND MEANS



REPRESENTATIVE PAUL SEATON
House District 35

Session:
State Capitol Building
Juneau, Alaska 99801
Phone 907-465-2689
Fax 907-465-3472
1-800-665-2689
Rep.Paul.Seaton@legis.state.ak.us

Interim:
345 W. Sterling Highway
Suite 102B
Homer, Alaska 99603
Phone 907-235-2921
Fax 907-235-4008

HB 415 **Sponsor Statement**

House Bill 415 encourages recreational use of private lands by protecting landowners who allow free public access to their lands.

HB 415 stipulates that a private landowner does not owe to a person using his or her property for recreational purposes, (1) a duty to keep the land safe for use, (2) a duty to warn of unsafe conditions, or (3) a duty to curtail the use of their land for recreational purposes. A landowner receives no protection under the bill if they either charge for access or are guilty of intentional, reckless or grossly negligent conduct.

Current state law does not directly address recreational use of private lands. Alaska's Recreational Activities statute, AS.09.65.290, passed by the legislature in 2003, mainly addresses commercial operators. Some landowners are protected by Alaska's unimproved land statute, AS.09.65.200, but it is difficult to determine what lands qualify in more developed areas. Lands near any sort of structure, or that have been altered slightly from their natural state, such as a hayfield, may not be covered under that statute.

Parties interested in allowing public access of their lands are unable to assess their risks. The courts likewise have few means of interpreting legislative intent regarding the relationship between landowner and recreational land user. HB 415 eliminates these ambiguities by granting immunity for the recreational use of private lands in the same manner adopted by most other states.

HB 415 promotes recreation throughout Alaska by clarifying the rights and responsibilities of landowners, encouraging them to allow the public free recreational use of their lands.



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 485-3867 or 485-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 6, 2006

SUBJECT: Sectional Summary (HB 415 (Work Order No. 24-LS1446U))

TO: Representative Paul Seaton

FROM: Dennis C. Bailey *DCB*
Legislative Counsel

You have requested a sectional analysis of the above described draft bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1. Subsection (a) provides that a landowner allowing recreational activity on the landowner's land, without charge does not (1) owe a duty to maintain the safety or to control the risks of recreational activity; (2) owe a duty to warn recreational users of dangerous conditions; (3) owe a duty to curtail recreational use; (4) ensure that the land is safe; (5) confer the legal status of invitee or license; or (6) assume responsibility for injury to persons or property.

Subsection (b) states that the protections for a landowner does not apply if the landowner collects a charge or if the landowner's conduct is intentional, reckless, or grossly negligent.

Subsection (c) states that the bill has no effect on a recreational release with a participant.

Subsection (d) states that recreational land use may not form the basis for a claim of adverse possession or similar claim except for the claims of governmental entities under AS 09.45.052(d).

Subsection (e)(1) defines "charge" as a price for access except that a charge is not (1) lease payments from the state or other political subdivision of the state; (2) property tax relief in exchange for opening land for recreational activity; or (3) contributions to improve access or mitigate hazards.

Subsection (e)(2) defines private land to include (1) improved or unimproved land, (2) an easement of right-of-way, (3) roads and trails, (4) water and water courses, and (5) buildings, structures and equipment.

Representative Paul Seaton
February 6, 2006
Page 2

Subsection (e)(3) defines "landowner" as a private holder of the possessory interest in property, leases, or easements.

Subsection (e)(4) defines recreational activity consistent with AS 09.65.290.

DCB:ljw
06-058.ljw

Introduced by:

Martin

Date:

03/14/06

Action:

Adopted

Vote:

7 Yes, 0 No, 2 Absent

KENAI PENINSULA BOROUGH

RESOLUTION 2006-027

A RESOLUTION SUPPORTING HB 415 RELATING TO LANDOWNERS' IMMUNITY FOR ALLOWING USE OF PRIVATE LAND FOR RECREATIONAL ACTIVITIES

WHEREAS, although Alaska Statute 09.65.200 provides immunity to land owners for certain uses of their unimproved land, Alaska currently does not have a statute that protects landowners from liability for the use of their improved land for private recreational use such as skiing, hiking, snowmachining, and horseback riding; and

WHEREAS, House Bill 415 would enact a statute to delineate the responsibilities of landowners who allow free public access to their lands for recreational uses; and

WHEREAS, the bill states that a private property owner does not owe a person using the land for recreational purposes a duty to keep the land safe for use, a duty to warn of unsafe conditions, a duty to prevent recreational use of the land, and does not assume responsibility for any injury to persons or property; and

WHEREAS, HB 415 also provides that recreational land use allowed by a landowner without charge may not be used to obtain a prescriptive easement or to adversely possess the property; and

WHEREAS, approximately 45 other states have similar statutes; and

WHEREAS, HB 415 will encourage private property owners to allow recreational uses on their lands, possibly leading to the development of more trails and expanding recreational opportunities for all Alaskans;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Assembly supports and endorses the passage of House Bill 415m as currently written.

SECTION 2. That copies of this resolution shall be forwarded to all members of the Alaska State Legislature and the Honorable Governor Frank Murkowski.

SECTION 3. That this resolution shall become effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 14TH DAY OF MARCH, 2006.

**CITY OF HOMER
HOMER, ALASKA**

**Mayor/
Parks & Recreation
Commission**

RESOLUTION 06-30

A RESOLUTION OF THE CITY COUNCIL OF HOMER ALASKA IN SUPPORT OF HOUSE BILL 415 ENTITLED "AN ACT RELATING TO LANDOWNERS' IMMUNITY FOR ALLOWING USE OF LAND FOR A RECREATIONAL ACTIVITY; AND PROVIDING FOR AN EFFECTIVE DATE".

WHEREAS, Current Alaska law does not address recreational land use directly; and

WHEREAS, Protection is granted only on lands qualifying as "unimproved", however it is difficult to legally define an improvement, which is a great concern to landowners when considering recreational land use; and

WHEREAS, This distinction should not be the benchmark used for protecting landowners when considering recreational land use; and

WHEREAS, HB 415 encourages the recreational use of private lands by protecting land owners that allow free public access to their lands; and

WHEREAS, HB 415 clearly stipulates that a private land owner does not owe a person using their property for recreational purposes,

- A duty to keep the land safe for use**
- A duty to warn for unsafe conditions**
- A duty to curtail the use of their land for recreational purposes; and**

WHEREAS, A landowner receives no protection under HB 415 if they charge for access or are guilty of intentional, reckless or grossly negligent conduct.

NOW, THEREFORE, BE IT RESOLVED That the City Council of Homer Alaska finds that the passage of HB 415 is in the best interest of landowners allowing use of their land for a recreational activity; and

BE IT FURTHER RESOLVED That the Council hereby expresses its strong support for HB 415 and urges that the Legislature and Governor pass it into law.

BE IT FURTHER RESOLVED by the City Council that this Resolution shall be sent to Governor Frank Murkowski, the Kenai Peninsula Borough Mayor, John Williams, and all Mayors in the Kenai Peninsula Borough and sent to the Alaska Municipal League, Senator Gary Stevens, Representative Paul Seaton, Senator President Ben Stevens, the Speaker of the House John Harris, and the Community and Regional Affairs and Finance Committees.

PASSED AND ADOPTED by the Homer City Council this 13th day of March, 2006.

CITY OF HOMER

ATTEST:

JAMES C. HORNADAY, MAYOR

MARY L. CALHOUN, CMC, CITY CLERK

Fiscal Note: N.A.




KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99689-7520
BUSINESS (907) 262-4441 FAX (907) 262-1892

JOHN J. WILLIAMS
MAYOR

MEMORANDUM

TO: Ron Long, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Milli Martin, Assembly Member 

DATE: March 2, 2006

SUBJECT: Resolution 2006-027, supporting HB 415 relating to landowners' immunity for allowing use of private land for recreational activities

Alaska currently does not have a statute that clearly protects landowners of improved land from liability for damages sustained from the use of their land for private recreational purposes, including motorized and nonmotorized uses.

A local trails group in Homer worked with Rep. Paul Seaton's office to draft HB 415, a bill to provide immunity to private landowners who allow free recreational uses on their land. It would not apply to commercial recreational uses or cases of intentional, reckless, or grossly negligent conduct on the part of the landowner.

AS 09.65.200 currently gives tort immunity only if the land is unimproved. This proved to be a conundrum for the University of Alaska, in litigation where the court found the issue concerned improved property, i.e. a sledding hill, and therefore denied immunity to the University, under the current statute.

As written, HB 415 will give full tort immunity to private property owners, and greatly assist in encouraging private property owners to allow the public to access their property for recreational uses.

I respectfully request your support of this Resolution.

Thank you.

Headquarters:
217 2nd Street, Suite 201
Juneau, Alaska 99801
(907) 586-2323 FAX 463-5515
www.alaskachamber.com



Regional Office:
601 W. 5th Ave., Suite 700
Anchorage, Alaska 99501
(907) 278-2722 FAX 278-6643

★ STATE ★
CHAMBER
OF COMMERCE

March 20, 2006

Representative Paul Seaton
Alaska House of Representatives
State Capitol
Juneau, Alaska 99801

Representative Seaton,

The Alaska State Chamber of Commerce supports House Bill 415. Private landowners often play a pivotal role in accessing Alaska's outdoors through leasing or granting permission to use their own private property. This role helps small businesses blossom while providing recreational access for Alaska's burgeoning tourist and adventure activities. Without legal protections, new tourist and adventure activities may be limited or threatened altogether. We believe HB 415 will increase business in Alaska by protecting private property owners from the potentiality of far-reaching lawsuits.

Jobs and economic opportunity are limited in many parts of Alaska, HB 415 may have additional benefits by creating opportunities in Alaska's remotest locations. The State Chamber encourages your constructive work with regards to HB 415 and we are hopeful that the bill will move through the legislative process.

Best Regards,

Wayne A. Stevens
President/CEO
Alaska State Chamber of Commerce

**Alaska State Chamber of Commerce
2006 Position
Amend the Tort Laws and Regulations**

The Alaska State Chamber of Commerce supports amending tort laws and regulations to reduce the number of wasteful law suits and exorbitant settlements and awards that cause insurance rates to climb and businesses to become less competitive in Alaska.



Kachemak Heritage Land Trust

315 Klondike Avenue • Homer, AK 99603 • ph: 907-235-5263 • fax: 907-235-1503 • www.kachemaklandtrust.org

February 20, 2006

Representative Paul Seaton
Capitol Building Room 102
Juneau, Alaska 99801

Dear Representative Seaton,

I am very pleased to write today to express strong support for House Bill No. 415, as it is currently written, on behalf of the board of directors and membership of Kachemak Heritage Land Trust. After working many years on trails issues primarily in the Homer area, it is wonderful to see your work to provide private landowners with more immunity for allowing increased recreational activity. It is our experience that many landowners would like to allow public access through their lands and while they support trail development and use, potential liability is a common concern.

House Bill No. 415 will make a significant difference in the future development of a strategic network of public trails, enhancing recreational opportunities for both residents and visitors. We see this as a very positive action that will result in improved public health, increased economic vitality for the area, and a wonderful land-use planning tool in the forefront of rapidly increasing residential development.

Thank you very much for your attention to and persistence in this effort. I am pleased to report that we have emailed many of our members to make them aware of your work to bring House Bill No. 415 and have encouraged them to add their support.

Sincerely,

Barbara Seaman
Executive Director

Preserving, for public benefit, land on Alaska's Kenai Peninsula with natural, recreational, or cultural values by working with willing landowners.



4014 Lake Street, suite 201
Homer, Alaska 99603
907-235-8177 ext. 5
hswcd@xyz.net

Rep. Paul Seaton
Capitol Building, Room 102
Juneau, AK 99801

Dear Representative Seaton:

During our February 9th Board of Supervisors meeting, our board members reviewed House Bill 415, "An Act relating to landowners' immunity for allowing use of land for recreational activity," and expressed strong support for this bill. Our Board unanimously supported your efforts to protect private property owners from frivolous lawsuits that could result from the informal use of trails and property for recreational uses.

Since 2001, the Homer Soil and Water Conservation District has worked with recreational issues on the Kenai Peninsula and have recognized a strong need for greater liability protection for landowners. This bill addresses this need and we are thrilled to see it in the legislature this session.

We would like to highlight that we support this bill in its current state; should any changes be made to the bill's language, we would like to consider any new implications of those changes.

Thanks for your hard work in Juneau, Paul. We appreciate you having your representation and thank you for your work on House Bill 415.

Please let us know if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script, reading "Shirley Schollenberg".

Shirley Schollenberg
District Manager

"To provide education and leadership in the conservation and sustainable use of soil- and water- related resources through cooperative programs that protect, restore and improve our environment."

LESSMEIER & WINTERS

LAWYERS - LLC

VINTAGE BUSINESS PARK
3000 VINTAGE BOULEVARD
SUITE 100
JUNEAU, ALASKA 99801

MICHAEL L. LESSMEIER
GREGORY W. LESSMEIER
SHELDON E. WINTERS

TELEPHONE: (907) 796-4998
FACSIMILE: (907) 796-4998
E-MAIL: lw@gd.net

Via Telefax to 465-3472

February 14, 2006

Representative Paul Seaton
Alaska State House of Representatives
State Capitol Room 102
Juneau, Alaska 99801

Re: House Bill 415

Dear Representative Seaton:

I am the registered lobbyist for State Farm and am pleased to voice State Farm's support for House Bill 415 relating to landowners' immunity for recreational activity. If there is anything we can do to help or any information we can provide, please let me know.

Sincerely,

LESSMEIER & WINTERS
Lobbyists For State Farm

By: _____

Sheldon E. Winters
Sheldon E. Winters

SEW/caf

0015-006/Letter to Seaton re HB 415.wpd

Ian Laing

From: Heather Beggs [Director@prattmuseum.org]
Sent: Thursday, January 19, 2006 11:27 AM
To: 'Bruce Hess'
Cc: Ian Laing
Subject: RE:

Hi Ian,

This email is in support of CoHost's draft changes to the liability statute and your revision efforts to that effect. The Pratt Museum supports this effort and is willing to write a more formal letter in the future if necessary. Please let us know how we can be of assistance.

Thank you,
Heather

Heather Beggs
Museum Director

Pratt Museum
3779 Bartlett Street
Homer, AK 99603
(907) 235-8635 ext.33/Fax 235-2764
director@prattmuseum.org
www.prattmuseum.org

Ian Laing

From: Phylis at Northern Enterprises [kshores@ptialaska.net]
Sent: Friday, January 20, 2006 10:43 AM
To: Rep. Paul Seaton
Subject: trails

January 20, 2006

Good Morning,

I have actively been a member of the Snomad Snowmachine Club here in Homer for 8 years. It is a good organization and supports our community abundantly. I enjoy atv activities of all kind and accept full responsibility for that. I have concerns about public access across private property and the liability issues connected with that. The land owner should not bear the responsibility, ideally the state should. I see this as an action that would insure the trails would stay open to be enjoyed in this great state of ours.

Thank you,

Phylis Tolva

FREE Emoticons for your email! [Click Here!](#)



Ian Laing

From: Valerie Connor [redherring007@hotmail.com]
Sent: Thursday, February 16, 2006 12:21 PM
To: Ian Laing
Subject: HB 415

Dear Ian,

I wanted to thank you for the work you have put into HB 415. Your support on this issue is much appreciated.

I would like to go on record as being in favor of this bill. It has the potential to benefit many communities around Alaska. With increasing sprawl, diminishing open spaces and health problems associated with inactivity, this bill is greatly needed. I can't imagine who would be against this bill. It benefits everyone. I believe many landowners would welcome a trail through their lands if they were relieved of the burden of a possible lawsuit. Please add my name to the list of supporters for HB 415.

Many thanks,

Valerie Connor

963 Cape Douglas Way Homer, AK 99603

235-6371

Ian Laing

From: Carol at Northern Enterprises [kshores@ptialaska.net]

Sent: Thursday, January 26, 2006 8:01 AM

To: Ian Laing

Subject: Land usage-liability

Good Afternoon Mr. Seaton,

I have actively been a member of the Snomad Snowmachine Club here in Homer for 4 years. This organization has been very helpful and offered many benefits to the entire community.

I enjoy both atv and snowmachine activity and understandably accept full responsibility for that.

Over the last couple of years I have noted more and more that the issue of liability of public access across private property is a major concern. As a land owner, I do not feel that I should have to bear the responsibility for someone wishing to use my property in order to have fun, I feel that this should be a state issue. I feel that with the states assistance in this matter our trails would be able to stay open to be enjoyed by all.

Thank you,

Carol Grace

Ian Laing

From: Wayne Watson [watson@xyz.net]
Sent: Friday, February 17, 2006 10:05 AM
To: Rep. Paul Seaton
Subject: support HB415
Follow Up Flag: Follow up
Flag Status: Completed

Dear Paul,

This message is to let you know of my support for HB415. I believe this could be important legislation to the development of ski and other recreational trails across the State.

Kind regards,

H. Wayne Watson
P.O. Box 884
Homer, AK 99603
907-235-4283

Ian Laing

From: Jeanne & Kevin Walker [jwalker@alaska.net]
Sent: Friday, February 17, 2006 4:53 PM
To: Rep. Paul Seaton
Cc: cohosts@gmail.com
Subject: HB 415
Follow Up Flag: Follow up
Flag Status: Completed

Rep Seaton,

I strongly support HB 415 and feel that it will dramatically improve the quality of life, health, and recreation in Alaska. Without the fear of liability problems, landowners will be more generous in allowing trails to cross their property.

It could possibly be argued there is also a fuel savings here - with trails that actually go from point A to point B, people may be able to walk, bike, or ski instead of driving their cars.

Thanks,
Kevin Walker

PO Bcx 1542
Homer, Alaska 99603
www.alaska.net/~walkersroost
1-907-235-5304
Cellphone: 1-907-299-7723

Rep. Paul Seaton

From: Kenneth Jones [ken_jonz@hotmail.com]
Sent: Saturday, February 18, 2006 8:44 AM
To: Rep. Paul Seaton
Subject: HB 415

Dear Rep. Paul

I enthusiastically support HB 415. I have property that I have no desire to post no trespassing and I also recreate on private property of others. This is a well thought out and necessary piece of legislation. Please add my support to HB 415.

Yours truly,
Ken Jones
907 235 6417

Ian Laing

From: Seabright [seabright@alaska.net]
Sent: Wednesday, January 18, 2006 4:05 PM
To: Ian Laing
Subject: Comprehensive tort immunity

This letter is intended to reflect my support for the proposed changes to the tort immunity laws affecting recreational trail use. I have found the existing set of laws do not support the private landowner who wishes to grant an easement to the public for recreational use. The requirement that the easement be granted to the State or municipality has created a Catch 22. The willing private landowner grants an easement to the public. In most cases we have found both the State and Kenai Peninsula will not accept these easements. Under current law the result is no tort immunity for the landowner. This problem is a serious impediment to the Kachemak Greenway, the Parkway Project, an interconnected system of open space and trails between Diamond Creek, Bridge Creek, Twitter Creek and Fritz Creek drainages. The system includes existing trust lands, private trail easements, easements across public lands and existing recreational sites at Baycrest, Lookout Mountain, McNeil Canyon and Evelene State Park. One day the public should be able to walk from the beach at Diamond Creek clear over to the beach at Cottonwood/Eastland. This system will become the backbone of a significant recreational resource. Let me know if I can provide any additional information.

Cordially,

Kenton Bloom

Ian Laing

From: Dave and Molly Brann [brann@alaska.net]
Sent: Thursday, January 19, 2006 10:08 AM
To: Rep. Paul Seaton
Cc: Ian Laing
Subject: Re: RE:

Rep. Paul Seaton,

Hi Paul, Just a short note to assure you the F achemak Nordic Ski Club, 200+ members, are in full support of creating a clear recreational use statute. The existing statute(s) while somewhat beneficial are confusing to the private landowner and don't cover all the situations we would like to see included. A new statute would make it much easier for the private landowner and trails groups to work together to provide recreational opportunities for residents and visitors alike. For over twenty years the biggest problem related to developing and maintaining ski trails in the Homer area has been the landowners fear of being sued. A new statute would be of benefit to the whole state.

I also am sure our local Raven Ridge Homeowners Assoc. would also be very supportive of a new comprehensive statute.

Sincerely,

Dave Brann

Ian Laing

From: Barb Seaman [barb@kachemaklandtrust.org]
Sent: Wednesday, January 18, 2006 1:04 PM
To: Ian Laing
Subject: recreational use statute

Hi Ian,

So glad to hear you are working on a new liability statute and not just an update of the existing one. Bruce Hess just emailed asking that those of us who support this effort let you know.

Kachemak Heritage Land Trust absolutely supports the work you and Rep. Seaton have taken on to update/re-write Alaska's recreational use liability statute. I will be happy to provide a formal letter of support for this effort when the time comes.

Thank you so much for your time and attention!

Barb Seaman
Executive Director
Kachemak Heritage Land Trust
P.O. Box 2400
Homer, Alaska 99603
907.235.5263

Ian Laing

From: Valerie Connor [redherring007@hotmail.com]
Sent: Thursday, February 16, 2006 12:21 PM
To: Ian Laing
Subject: HB 415

Dear Ian,

I wanted to thank you for the work you have put into HB 415. Your support on this issue is much appreciated.

I would like to go on record as being in favor of this bill. It has the potential to benefit many communities around Alaska. With increasing sprawl, diminishing open spaces and health problems associated with inactivity, this bill is greatly needed. I can't imagine who would be against this bill. It benefits everyone. I believe many landowners would welcome a trail through their lands if they were relieved of the burden of a possible lawsuit. Please add my name to the list of supporters for HB 415.

Many thanks,

Valerie Connor

963 Cape Douglas Way Homer, AK 99603

235-6371

Ian Laing

From: Jeanne Parker [otterbdancing@gci.net]
Sent: Monday, February 20, 2006 1:15 PM
To: Ian Laing
Cc: cohosts@gmail.com
Subject: HB 415

Hi Ian,

I want to let you know that I support HB 415. I am a strong supporter of public use of trails, and any way that these can be established more easily is worth the effort.

Thanks Jeanne Parker, Homer, AK.

**Coalition for Homer Open Space and Trails
(907) 235-2926**

January 18, 2006

**Representative Paul Seaton
Capitol Building, Rm. 102
Juneau, AK 99801**

Dear Representative Seaton:

This past November the Coalition for Homer Open Space and Trails met with you and your staff to discuss potential changes to the Alaska liability statutes, especially as they affect landowner liability and recreational activities.

We thank you for your time on this effort and would like to express our strong support for continuing the pursuit of alternative language that will help landowners to feel more comfortable with their liability concerns and be more apt to allow access for recreational opportunities across their land.

As it stands, the existing statutes are confusing for landowners to understand their rights and responsibilities and, as such, landowners have become more concerned about their liability. We hope the new legislation will clarify the rights of property owners to allow public use of their land without fear of petty liability actions.

Please contact me at the above listed number if you have any questions or suggestions regarding COHOST and the ideas expressed in this letter. Your support and involvement could make a very positive difference.

Sincerely,

**Bruce Hess
Founding Member**

Louie Flora

From: POMS@legis.state.ak.us
Sent: Wednesday, March 15, 2006 1:32 PM
To: Louie Flora
Subject: New Pom:HB 415 Liability For Recreational Land Use

Mairiis Kilcher
40904 Seaside Farm Rd

Homer 99603-9460,

I strongly support HB 415. I would appreciate a hearing on it in House Resources Committee.

Ian Laing

From: Dianne Mahaffey [driahaff@alaska.net]
Sent: Friday, March 10, 2006 9:01 AM
To: Rep. Paul Seaton
Subject: HB415

We want to commend you on your work to introduce and move forward HB415.

As long-time trail users in Alaska, we feel this is a very important piece of legislation.

Thank you for your efforts.

James R. & Dianne D. Mahaffey
9601 Midden Way
Anchorage, AK 99507

Homer Alaska
2/24/06

Rep. Paul Seaton
State Capital
Juneau, AK 99801

Dear Paul,

I am writing in support of H.B. 415

As a lifelong skier and user of trails, downhill facilities, and ski jumps at several places in Alaska and in Minnesota; and as a younger enthusiast I've been aware of the risk and responsibilities of both user and landowner. I believe the proposed legislation would greatly enhance the availability of recreational areas and, at the same time, leave in place protection of both landowner and user.

Thank you for your service to Alaska and your consideration of our particular needs

Respectfully,

Meritt A. Mitchell
77811 Homer

Ian Laing

From: Afish-n-See/Kennedy's [afishnsee@alaska.com]
Sent: Tuesday, March 07, 2006 8:49 AM
To: Rep. Paul Seaton
Cc: cohosts@gmail.com; Molly Brann
Subject: in favor of HB 415

Representative Seaton,

I am a cross country skier and land owner who would benefit from the passing of HB 415. The protection to private land owners that this bill would provide would definitely encourage me to participate. I currently go to great measure to prevent trespassing on my land. Also as a skier who travels to Homer occasionally to ski I am aware that is a big issue there. Many fine trails could be expanded without huge cost if this bill passes.

Thank you for your help to pass HB 415,

Kathryn Kennedy
P.O. Box 39011
Ninilchik, Alaska 99639
907-567-3310
afishnsee@alaska.com

Ian Laing

From: Dave and Molly Brann [brann@alaska.net]
Sent: Sunday, March 12, 2006 9:01 PM
To: Ian Laing
Subject: HB 415, Newsletter

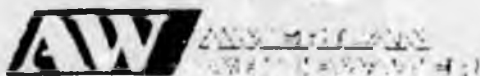
Hi Ian,

After a successful Marathon Ski Race from Lookout Mt. to the Baycrest Trails today, 80 participants with a fair number from Anchorage and points north, I just wanted to point out once again the value of HB 415. A good portion of the 30 mile trail crossed private property (with their permission) but each of them was at risk under existing state statutes. After spending 8 hours on a snowmachine seeing to the safety of participants and trail maintenance I came home to read Paul's newsletter.

I fully understand the importance of the oil tax, the mining laws, the Pers/Ters issue but frankly was frustrated by the lack of even the mention of HB 415. A one sentence mention of the bill or a request for an opinion would have been nice. As you know there are a good group of people working hard just to get the bill before the public. A note in the newsletter would lend some credence to that effort.

I know it is a busy time and a busy place and do appreciate all that you do.

Sincerely,
Dave Brann



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Liability And Recreational Use Statutes

posted December 11, 2000 by Jason Robertson

American Whitewater has prepared this table with substantial help from the International Mountain Biking Association (IMBA) and the American Association for Horsemanship Safety (AAHS) as a tool for understanding the differences between state recreational use statutes on a national basis. This table is a valuable tool; however it is not the final word on liability law in America. Exercise your own good judgement when using the material and verify the status of your state statutes independently with an attorney before relying on this data.

What are Recreational Use Statutes and how do they work?

Clarification of terms used in this table.

Credits and Appreciation.

STATE	YEAR PASSED	DUTY TO DUTY		ASSURANCE OF SAFETY	LIABILITY FOR MISCONDUCT PROTECTION	
		KEEP SAFE	TO WARN		WILFUL/WANTON	LOST IF FEE CHARGED
Alabama						
<u>Alabama Code §35-15-1</u>	1965, 1981	No	No	No	Yes	No, if use of land is non-commercial
Alaska						
<u>Alaska Stat. §09.65.200</u>	1980	Not Specified	Not Specified	Not Specified	Yes	Yes
Arizona						
<u>Arizona Rev. Stat. Ann. §33-1551</u>	1983	Not Specified	Not Specified	Not Specified	Yes	Yes
Arkansas						
<u>Arkansas Stat.</u>	1965,	No	No	No	Yes	Yes, but fees

<u>Ann. §18-11-301</u>	1983, 1991						from land leased to public agency allowed
California							
<u>California Govt. Code §2-2-3-2-846</u>	1963, 1988	No	No	No	Yes		Yes, but fees from land leased to public agency allowed
Colorado							
<u>Colorado Rev. Stat. §33-41-101</u>	1963, 1970	Not Specified	Not Specified	No	Yes		Yes, but fees from land leased to public agency allowed
Connecticut							
<u>Connecticut Gen. Stat. §52-557(f)</u>	1971, 1990	No	No	No	Yes		Yes, but fees from land leased to public agency allowed
Delaware							
<u>Delaware Code Ann. §7-VI-5901</u>	1953	No	No	No	Yes		Yes, but fees from land leased to public agency allowed
Florida							
<u>Florida State. Ann. §XXVIII-375.251</u>	1963	No	No	No	Yes	Yes	
Georgia							
<u>Georgia Code Ann. §51-3-20</u>	1965	No	No	No	Yes		Yes, but fees from land leased to public agency allowed
Hawaii							
<u>Hawaii Rev. Stat. §3-28-520-1</u>	1969	No	No	No	Yes		Yes, but fees from land leased to

						public agency allowed
Idaho						
<u>Idaho Code §36-16</u>	1976, 1988	No	No	No	Not Specified	Yes
Illinois						
<u>Illinois Ann. Stat. §745-65-1</u>	1965	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
Indiana						
<u>Indiana Code Ann. §14-22-10</u>	1969, 1995, 1998	No, for recreation trails; not specified for other locations.	Not Specified	No	Yes	Yes
Iowa						
<u>Iowa Code Ann. §XI-2-461(C)</u>	1967	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
Kansas						
<u>Kansas Stat. Ann. §58-3201</u>	1965, 1988	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
Kentucky						
<u>Kentucky Rev. Stat. Ann. §XXXVI-411-190</u>	1968, 2000	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
Louisiana						
<u>Louisiana Rev. Stat. Ann. §9-III-V-2-2791 & 2795</u>	1964, 1989	No	No	No	Yes	Yes

Maine

<u>Maine Rev. Stat. Ann. §14-1-7-159(A)</u>	1979, 1995	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
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Maryland

<u>Maryland Nat. Res. Code Ann. §5-1101</u>	1957, 1998	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
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Massachusetts

<u>Massachusetts Gen. Law Ann. §I-21-17(C)</u>	1972	Not Specified	Not Specified	Not Specified	Yes	Yes, but voluntary payments are allowed
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Michigan

<u>Michigan Comp. Laws Ann. §324.73301</u>	1994	No	No	No	Yes	Yes, but may charge a fee for "U-Pick" crops & not lose immunity
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Minnesota

<u>Minnesota Stat. Ann. §604(A)20</u>	1961, 1994	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
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Mississippi

<u>Mississippi Code Ann. §89-2-1</u>	1978, 1986	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
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Missouri

<u>Missouri §XXXVI-537.345</u>	1983	No	No	No	Yes	Yes
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Montana

<u>Montana Rev. Code Ann. §70-</u>	1965, 1995	No	Not Specified	No	Yes	Yes
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Nebraska

<u>Nebraska Rev. Stat. §37-730</u>	1965, 1998	No	No	No	Yes	Yes, except can charge group rates & not lose immunity
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Nevada

<u>Nevada Rev. Stat. §41.510</u>	1963, 1995	No	No	No	Yes	Yes
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New Hampshire

<u>New Hampshire Rev. Stat. Ann. §XVIII-212-34</u>	1961, 1982	No	No	No	Yes	Yes, but may charge a fee for "U-Pick" crops & not lose immunity
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New Jersey

<u>New Jersey Stat. Ann. §13-1 (B)B-15-133</u>	1968, 1984	No	No	No	Yes	Yes
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New Mexico

<u>New Mexico Stat. Ann. §17-4-7; §66-3-1013; §16-3-9</u>	1973	No	Not Specified	No	Yes	Yes, but fees from land leased to public agency allowed
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New York

<u>New York Gen. Oblig. Law §9-103</u>	1963	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
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North Carolina

<u>North Carolina Gen. Stat. §113 (A)-6-95</u>	1987 Trails Act, 1993	Not Specified	Not Specified	Not Specified	Not Specified	Only applies to trails & not other uses of land
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North Dakota

<u>North Dakota Cent. Code §53-</u>	1965, 1993	No	No	No	Yes	Yes, but fees from land
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<u>08-1</u>							leased to public agency allowed
Ohio							
<u>Ohio Rev. Code Ann. §XV-33-18</u>	1963, 1995	No	Not Specified	No	Not Specified	Yes	
Oklahoma							
<u>Oklahoma Stat. Ann. Title §76-10</u>	1965, 1994	No	No	No	Yes		Yes, but fees from land leased to public agency allowed
Oregon							
<u>Oregon Rev. Stat. §105.672</u>	1971, 1995	No	No	No	Yes		Yes, but fees from land leased to public agency allowed
Pennsylvania							
<u>Pennsylvania Stat. Ann. §68-11-477</u>	1965	No	No	No	Yes		Yes, but fees from land leased to public agency allowed
Rhode Island							
<u>Rhode Island Gen. Law §32-6-1</u>	1978	No	No	No	Yes		Yes, but fees from land leased to public agency allowed
South Carolina							
<u>South Carolina Code Ann. §27-3-10</u>	1962	No	No	No	Yes		Yes, but fees from land leased to public agency allowed
South Dakota							
<u>South Dakota Comp. Laws Ann. §20-9-11</u>	1966, 1990	No	No	No	Yes		Yes, but nonmonetary gifts up to \$100 allowed

Tennessee

<u>Tennessee Code Ann. §11-10-101</u>	1988	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
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Texas

<u>Texas Stat. & Codes §4-75.001</u>	1965, 1999	No	Not specified	No	Yes	No. Revenue from charges may not exceed 2x prop. taxes
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Utah

<u>Utah Code Ann. §57-14-1</u>	1971, 1997	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
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Vermont

<u>Vermont Stat. Ann. §10-020-441 & §12-5791</u>	1967, 1993	No	Not Specified	No	Yes	Yes
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Virginia

<u>Virginia Code §29.1-509</u>	1950	No	No	No	Yes	Yes, but may charge fees to maintain the land & not lose immunity
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Washington

<u>Washington Rev. Code Ann. §4-24.200</u>	1967, 1997	Not Specified	Not Specified	Not Specified	Yes	Yes, but may charge for cutting firewood & not lose immunity
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West Virginia

<u>West Virginia Code §19-25-1</u> Also see <u>West Virginia's Whitewater Responsibility</u>	1965	No	No	No	Yes	Yes
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<u>Act §20-3b-1 to 5</u>						
Wisconsin						
<u>Wisconsin Stat. Ann. §895.52</u>	1963, 1995	No	No	No	Not Specified	No, so long as total revenues don't exceed \$2000 annually
Wyoming						
<u>Wyoming Stat. Ann. §34-19-101</u>	1965	No	No	No	Yes	Yes, but fees from land leased to public agency allowed

CLARIFICATION OF TERMS:

YEAR PASSED: When was the recreational use statute passed or modified?

DUTY TO KEEP SAFE: Does the owner owe a duty of care to keep their premises safe for entry and use by others for recreational purposes?

DUTY TO WARN: Does the owner owe any duty to warn visitors of hazardous conditions, structures, or activities on their property to persons entering for recreational purposes?

ASSURANCE OF SAFETY: Does the owner who gives permission to another for recreational activities on their property thereby extend any assurance that the premises are safe?

LIABILITY FOR MISCONDUCT WILFUL/WANTON: Does the statute limit the landowner's liability for wilful or malicious failure to guard or warn against known dangerous conditions, uses, structures, or activities?

PROTECTION LOST IF FEE CHARGED: Does the statute limit the landowner's liability for injuries suffered in any case where access permission is granted for commercial enterprise or profit? In other words, does the landowner lose their protection under the statute if they charge an access fee?

CREDITS:

American Whitewater collected the majority of this data via private research, correspondence, and assistance from the following sources: