

HB

4 15

Melanie Lesh is here with DNR -
do you want a Dept. statement
on the record - given the negative
comments?

OOPS = see update with Dick
Wyllis.

Senate Resources

April 27, 2006

HB 415 Sponsor Packet

Cover Sheet _____	1 page
Sponsor Statement _____	1 page
Sectional Analysis _____	2 pages
CS HB 415 (JUD) (\L version) _____	3 pages
HB0415a (original version) _____	3 pages
Fiscal Note - ADMIN 3/20/06 _____	1 page
Peninsula Clarion Article _____	2 pages
Liability and Recreational Use Statutes _____	8 pages
Letters of Support (see page 18 outline provided) _____	37 pages
Total Pages: _____	58 pages

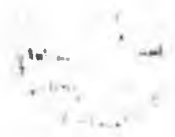
ALASKA STATE LEGISLATURE

Chair
STATE AFFAIRS

Member
RESOURCES

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
WAYS AND MEANS



REPRESENTATIVE PAUL SEATON
House District 35

Session:
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Juneau, Alaska 99801
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Homer, Alaska 99603
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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 hay field, 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
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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 6, 2006

SUBJECT: Sectional Summary (HB 415 (Work Order No. 24-LS1446I))

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 licensee; 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

1 activity;

2 (2) owe a duty to warn persons using the land for a recreational
3 activity of any dangerous condition, known or unknown, apparent or hidden;

4 (3) owe a duty to curtail or prevent use of the land for recreational
5 activities;

6 (4) implicitly ensure that the land is safe for any purpose;

7 (5) confer a legal status, such as invitee or licensee, to which a special
8 duty of care is owed; or

9 (6) assume responsibility for any injury to persons or property.

10 (b) This section does not apply to a civil action

11 (1) if the landowner collects a charge for entry on the land for a
12 recreational activity; or

13 (2) based on intentional, reckless, or grossly negligent conduct of the
14 landowner.

15 (c) This section may not be construed to conflict with, nor does it have any
16 effect on, a liability release agreement between a participant in a recreational activity
17 and a landowner.

18 (d) Except as provided for under AS 09.45.052(d), land use allowed by a
19 landowner for a recreational activity without charge may not form the basis of a claim
20 for adverse possession, prescriptive easement, or a similar claim.

21 (e) In this section,

22 (1) "charge" means a fee or admission price imposed for access to or
23 use of land, a recreational activity, a service, an entertainment, or another activity,
24 except that the following is not considered a "charge":

25 (A) consideration received by the landowner from the state or
26 political subdivision for land leased or dedicated to the state or political
27 subdivision;

28 (B) property tax relief in exchange for a landowner's agreement
29 to open land for a recreational activity;

30 (C) a contribution in kind, service, or cash from a user if all of
31 the contribution is used to improve access or trails, to remedy or reduce

1 damage, to provide warning of a hazard, or to remove a hazard from the land;

2 (2) "land" includes private

3 (A) improved or unimproved land;

4 (B) ways or land subject to an easement or right-of-way;

5 (C) roads and trails;

6 (D) water and watercourses on or running through the land;

7 (E) buildings, structures, other improvements, machinery, and
8 equipment on the land;

9 (3) "landowner" means

10 (A) a private owner or holder of the possessory or controlling
11 interest in land, including a fee simple interest or life estate;

12 (B) a private lessee;

13 (C) the private holder of an easement; or

14 (D) another private person in control of the land;

15 (4) "recreational activity" has the meaning given in AS 09.65.290.

16 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 415
 () Publish Date: _____

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 Sealon
 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 - 8:55 a.m.
 Approved by: Michael Tibbles, Deputy Commissioner Date: 3/20/2006
 Agency: Administration



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This week's stories

Land-use bill could open more private land to recreation

Liability to have a good time

By **HAL SPENCE**
Peninsula Clarion

Devony Lehner lives on 18 acres of mostly undeveloped land adjacent to the Baycrest Ski Trails near Homer, and since 2001 has permitted skiers, hikers and horseback riders recreational access to her land free of charge.

A lover of the outdoors, she thinks it is simply the right thing to do. But always in the back of her mind is concern that should someone have an accident on her property, she might be sued.

"We bought parcels to make that (Baycrest) trail area as expansive as possible," Lehner said. "Trails here cross a lot of private land. I'm a big advocate of trail use, and I believe if you support something, then you should really support it. But it is nerve-racking to think that someone might be skiing down Cathy's Hill and run into a tree and that we might be liable."

The threat of liability may prevent other private property owners from opening their land for recreational use, essentially limiting the public's access to the great outdoors —not only near Homer, but around the state.

A bill sponsored by Rep. Paul Seaton, R-Homer, may provide the kind of protection sought by private property owners like Lehner who would share their land with the public.

The bill, introduced Feb. 1, would provide immunity for private landowners across Alaska when they allow recreational use of their properties without charge. The bill would not cover commercial operators who charge a fee for land use.

The liability issue "has thwarted trails development," Seaton said. "This would allow for the free use of land for recreational purposes" without the landowner, in most cases, being liable for injuries.

The bill spells out that a property owner who directly or indirectly permits use of their land without charge would not have to make the land be safe for entry or be required to "eliminate, alter, or control the inherent risks of a recreational activity."

A landowner would not have to warn users of any known or unknown dangers — such as a stump beneath the snow. Nor would a landowner have to do anything in particular to prevent use of the land, such as posting "no trespassing" signs or erecting fences. Merely providing

Miss a day?

Use the list to see the stories from the past week.

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- Monday

Today's front page



access would not become an implicit assurance that the land was safe, nor would it confer any legal status on a user.

The proposed law would not protect a landowner who charged for access to land for a recreational activity, or protect against civil action arising from "intentional, reckless, or grossly negligent conduct of the landowner."

Bruce Hess, a Homer-area resident, is a founding member of an informal group called the Coalition for Homer Open Space and Trails, which began discussing the land-use liability dilemma about a year ago.

"There were lots of individual (recreation-specific) groups, like skiers and snowmachiners, but no one was talking about these issues that are a concern to all those groups," Hess said. "After looking at the (state) statutes, we saw an ambiguity about how liability was handled. There was room for improvement."

The coalition, commonly called CO-HOST, began researching how free-use liability for landowners is dealt with by other states.

"I think people will be more willing (to open their land to public use) if there were clear legislation to allow recreational use on private property." Hess said.

"We looked at this really closely, looked at hundreds of pages of case law searching for a way to protect generous landowners, not people trying to make money on it," said Ian Laing, an aide to Seaton.

Currently, state law regarding access liability protection applies to unimproved land, though the definition about what is or is not improved is not clear. The proposed law would shift focus from the type of land involved to the type of use, applying to improved and unimproved land, Laing said.

For instance, if a portion of a trail across private property coursed down the side of a driveway, a landowner would be protected should an injury occur along the driveway.

While landowners charging commercial fees for simple access would not be protected from liability under the proposed law, the bill would permit certain kinds of "charges." For instance, compensation paid for land leased or dedicated to the state or a political subdivision would not be considered a commercial fee.

Nor would property tax relief granted in exchange for a landowner's agreement to open land to free recreational use, or where in-kind contributions, services or cash from a user were employed to improve access or trails, reduce or remedy damage, or provide warning about or removal of hazards.

About 45 other states have similar statutes. Seaton's bill, Laing said, would bring Alaska into parity with those other states.

<u>Ann. §18-11-301</u>	1983, 1991					from land leased to public agency allowed
California						
<u>California Govt. Code §2-2-3-2-§46</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</u> <u>§36-16</u>	1976, 1988	No	No	No	Not Specified	Yes
Illinois						
<u>Illinois Ann.</u> <u>Stat. §745-65-1</u>	1965	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
Indiana						
<u>Indiana Code</u> <u>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.</u> <u>§XI-2-461(C)</u>	1967	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
Kansas						
<u>Kansas Stat.</u> <u>Ann. §58-3201</u>	1965, 1988	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
Kentucky						
<u>Kentucky Rev.</u> <u>Stat. Ann.</u> <u>§XXXVI-411-190</u>	1968, 2000	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
Louisiana						
<u>Louisiana Rev.</u> <u>Stat. Ann. §9-</u> <u>III-V-2-2791 &</u> <u>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. §1-21-17(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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16-301

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)8-15-133</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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08-1

leased to
public agency
allowed

Ohio

Ohio Rev. Code 1963, No Not No Not Specified Yes
Ann. §XV-33-18 1995 Specified

Oklahoma

Oklahoma Stat. 1965, No No No Yes Yes, but fees
Ann. Title §76- 1994 from land
10 leased to
public agency
allowed

Oregon

Oregon Rev. 1971, No No No Yes Yes, but fees
Stat. §105.672 1995 leased to
public agency
allowed

Pennsylvania

Pennsylvania 1965 No No No Yes Yes, but fees
Stat. Ann. §68- from land
11-477 leased to
public agency
allowed

Rhode Island

Rhode Island 1978 No No No Yes Yes, but fees
Gen. Law §32-6- from land
1 leased to
public agency
allowed

**South
Carolina**

South Carolina 1962 No No No Yes Yes, but fees
Code Ann. §27- from land
3-10 leased to
public agency
allowed

South Dakota

South Dakota 1966, No No No Yes Yes, but
Comp. Laws 1990 nonmonetary
Ann. §20-9-11 gifts up to
\$100 allowed

Tennessee

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

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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Act 520-3b-1 to 5

Wisconsin

<u>Wisconsin Stat. Ann. 5895.52</u>	1963, 1995	No	No	No	Not Specified	No, so long as total revenues don't exceed \$2000 annually
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Wyoming

<u>Wyoming Stat. Ann. 634-19-101</u>	1965	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
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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:

Letters of Support – HB 415

Organizations

Alaska State Chamber of Commerce
Kenai Peninsula Borough (Resolution)
City of Homer (Resolution)
Alaska Trails
Kachemak Heritage Land Trust
State Farm
Matsu Sled Dog Council
Lessmeier & Winters
Pratt Museum
Coalition for Open Space and Trails
Snowmad Snowmachine Club
Homer Soil and Water Conservation District
Kachemak Nordic Ski Club

Individuals

James & Dianne Mahaffey	Anchorage
Steve Ulvi	Fairbanks
Kelley Griffin	Wasilla
Wayne Clark	Gustavus
Kathryn Kennedy	Ninilchik
Doug Schweisow	Homer
Phylis Tolva	Homer
Kenton Bloom	Homer
Dave & Molly Brann	Homer
Milli Martin	Homer
Lois Bettini	Homer
Kevin & Jeanne Walker	Homer
Carol Grace	Homer
Roberta Highland	Homer
Al Poindexter	Homer
David Schcer	Homer
Mairiis Kilcher	Homer
Lindsay Winkler	Homer
Wayne Watson	Homer
Heather Beggs	Homer
Bruce Hess	Homer
Valerie Connor	Homer
Tamara Schmidt	Homer
Barb Seaman	Homer
Kenneth Jones	Homer
Jeanne Parker	Homer



KENAI PENINSULA BOROUGH

144 N. BINKLEY · SOLDOTNA, ALASKA · 907-262-7820
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JOHN J. WILLIAMS
MAYOR

MEMORANDUM

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

FROM: Milli Martin, Assembly Member *(initials)*

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.

Introduced by:

<http://www.borough.kenai.ak.us/assemblyclerk/Assembly/Resolutions>.

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.

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.

ALASKA TRAILS



Enhancing the Alaska trail experience
by supporting sustainable, legal trails
through education, facilitation, and
funding, and the promotion of their
health, social, and economic benefits

PO Box 140264
Anchorage, AK
99514-0264
907-333-4442
www.alaska-trails.org

March 14, 2006

Representative Paul Seaton
Capitol Building, Room 102
Juneau, AK 99801

Dear Representative Seaton:

During our Board of Director's meeting today, we reviewed House Bill 415, "An Act relating to landowners' immunity for allowing use of land for recreational activity." The Board unanimously supports your efforts to protect private property owners from lawsuits that could result from the informal recreational use of trails and property when no fees are collected by the landowner.

Liability from recreational activities has been a long-term concern by the private landowners within Alaska. Since Alaska Trails was formed in 2003, we have addressed trail issues statewide. We recognize the liability concern as the number one reason why private landowners are hesitant to grant public access across their lands. HB 415 addresses that concern and we support its passage.

Thank you for your efforts to reduce this landowner concern and to increase recreational opportunities, especially trail access, across Alaska.

Please do not hesitate to contact us if we can provide additional support for HB415.

Sincerely,

A handwritten signature in cursive script that reads "Jack Mosby". The ink is dark and the signature is fluid and legible.

Jack Mosby
President



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
hsxcd@xvz.net

March 2, 2006

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

Dear Representative Seaton:

During our February 9th Board of Supervisors meeting, the 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. The 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 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 black ink, appearing to read "Steve Gibson".

Steve Gibson
Board Member

*Paul - Thanks for your work on this
We think it's important - S.*

*"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) 786-4998
FACSIMILE: (907) 786-4998
E-MAIL: lw@gl.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

SEW/caf

0013-006/Letter to Seaton re HB 413.wpd

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 or 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

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

Maurice Mitchell

my name is Roberta Highland, I am representing the Kachemak Bay Conservation Society. We have a membership of 130.

Our mission is dedicated to protecting the environment & encouraging sustainable use & stewardship of the natural resources in the Kachemak Bay region. We strongly support HB 415. There are many areas experiencing population increases, homes being one of them. Trails are a quality of life issue, as the population grows. This bill encourages the recreational use of private lands by defining the liability of landowners who allow free public access to their lands. This legislation will enable us to expand recreational opportunities & protect land owners. Trails have been proven to ↑ property values & are one of homeowners' dreams is to be an area connected by trails. This bill would assist us in realizing this dream.



Alaska State Legislature

Please enter into the record my testimony to the Resource
COURTTEE NAME
 committee on H.B. 415, dated 3-22-06
BILL / SUBJECT TODAY'S DATE

The Alaska Association of Conservation Districts Board of Directors discussed this bill at their last meeting. They represent the 18 Conservation Districts across the state. One of the principle benefits of this bill recognized by the board is to relieve landowners worry about folks hunting on private land and may allow more area be available for hunting. The board supported the bill in its entirety & unanimous. This bill allows neighbors to be good neighbors. Thank You.

Signature: Al Poindester
TESTIFY
Alaska Association of Conservation Districts
REPRESENTING
4014 Lake Street, Ste 201 Homer, AK. 99603
ADDRESS
235-8177 x4
PHONE NO.



Alaska State Legislature

Please enter into the record my testimony to the resources
COMMITTEE NAME
 committee on HB 415, dated 03/22/06
SUBJECT TODAY'S DATE

My name is David Scheer, Homer resident and partner in a design firm in Homer.

IDA Design has been working on a number of projects recently that involve planning and development of large tracts of land. Most of these projects are planned with significant areas of open space, trails and wildlife corridors, but it has been a struggle to figure out clearly how to allow public access without opening my clients to significant liability.

From my perspective as a designer and developer, HB 415 will increase the freedom of private property owners to decide the best use of their own land. As a member of the community, HB 415 will be a real benefit for the public. It will allow cities to see an increase in public use areas even while economic development and growth in fill vacant lands. Private land open to public use also increases public recreation space with no additional burden on

Signatures: ~~IDA projects - open land acquisition and maintenance.~~

David Scheer
TESTIFYING REPRESENTING

David Scheer
ADDRESS

1311 Lakeshore #3, Homer
PHONE NO.

235-1505



Alaska State Legislature

Please enter into the record my testimony to the House Resources Committee
COMMITTEE NAME
 committee on HB 415, dated 3-22-06.
BILL / SUBJECT TODAY'S DATE

I am landowner of Seaside Farms in Homer, and owner of 50 acres homestead on Kochomak Bay; plus I am trustee of Kitcher Homestead Trust consisting of 600 acres under a conservation easement.

The public often crossed or used trails on both the unimproved + improved parts of these lands in the past, for recreational purposes. We have enjoyed sharing the trails + properties with neighbors + the public but are concerned about liability. It is often impossible + prohibitive for landowners to get adequate insurance. This bill, if passed, would make it easier for ~~the~~ public to enjoy use of private lands.

Please pass this bill!! It is important.
 I strongly support passage of this bill.

Signed: Marilyn Kitcher
TESTIFY

Self and as Trustee, Kitcher Homestead Trust
REPRESENTING

10904 Seaside Farm Rd. Homer, AK 99603
ADDRESS

935-7540
PHONE



Alaska State Legislature

Please enter into the record my testimony to the Resources
COMMITTEE NAME

committee on HB 415 dated 3/22/08
BILL / SUBJECT TODAY'S DATE

Rep. Kammars, Rep. Samuels, & members of the committee,
Please accept this testimony from the Homer Soil
Water Conservation District expressing strong support
for House Bill 415. We support these bill for four reasons:

- (1) this bill provides clarity that leaves no doubt in a landowner's mind regarding their liability;
- (2) it is standard language adopted by approximately 45 states in our nation;
- (3) does not threaten a landowner's property rights because it specifically states that this informal, non-commercial use does not constitute a basis for a prescriptive easement;
- (4) other statutes that simply state negligence do not provide enough clarity, as HB 415 does in section 3, b, 1.

We recognize the many other pressures on your time & hope that the significant support you'll find from our testimony today & in the future will help move this bill quickly into law.

TESTIFYER: Lindsay Winkler PRINTED NAME

REPRESENTING: Homer Soil & Water Conservation District

ADDRESS: 4041 Lake St, Suite 201, Homer, 99603

PHONE NO.: (907) 235-8177 x.116

Ian Laing

From: Doug or Lois [odonata@homemet.net]
Sent: Saturday, March 25, 2006 7:36 AM
To: Dave and Molly Brann; Milli Martin; Rep. Paul Seaton
Subject: support HB 415
Follow Up Flag: Follow up
Flag Status: Green

As active, longtime, summer and winter trails users, and private land-owners who have a non-motorized, cross-country ski trail available for public use on our own land, we strongly support HB 415 , and encourage you to do so.

Sincerely,

Doug Schwiesow and Lois Bettini

66584 Diamond Ridge Road

Homer, Alaska 99603

Ian Laing

From: Kevin Walker [kevin_walker99802@yahoo.com]
Sent: Thursday, February 02, 2006 2:07 PM
To: Rep. Paul Seaton
Subject: RECREATIONAL LAND USE HB 415

Rep Seaton,
I'm glad to see the RECREATIONAL LAND USE bill has made it to the legislature. This should help improve the quality of life in all of Alaska by allowing people more access to trail systems that are connected by trails.

It could probably be argued that this is an energy saving bill - people will be able to get to their recreational areas by using the trails instead of having to drive to the trailheads.

Thanks,

Kevin Walker
59975 Golden Plover
Homer, Alaska 99603
235-5304

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around <http://mail.yahoo.com>

Louie Flora

From: POMS@legis.state.ak.us
Sent: Thursday, March 23, 2006 9:21 AM
To: Louie Flora
Subject: New Pom:HB 415 Liability For Recreational Land Use

Kelley Griffin
Hc 30 Box 5355z

Wasilla 99654-9712,

I am a Yukon Quest and Iditarod musher. Training and racing trails are critical to my livelihood. Give trail users a tool to maintain access and create new trails! Landowners should not be held liable for mishaps on a trail on their property! Pass HB0415A!!

Ian Laing

From: Kelley G [kelleyg@gci.net]
Sent: Wednesday, March 22, 2006 5:26 PM
To: Rep. Paul Seaton; Rep. Harry Crawford; Rep. Mary Kapsner
Subject: HB 415A

To Whom it May Concern,

I am a member of the MatSu Sled Dog Council, Inc. a non-profit dedicated to education and preservation of dog mushing in Alaska, as well as a Yukon Quest and Iditarod musher. Trails are a critical part of the equation in the sport of dog mushing, which is the official state sport.

Due to the massive amount of development, especially in the MatSu, we are losing trails every day. Even trails along public right of ways are in danger because of road development.

And in light of today's litigious society, many landowners are reluctant to allow historic or new passage across their properties, which further restricts and in many cases, cuts trails into unusable pieces.

Please give trail developers a powerful tool to maintain access and create new trails! Landowners should not be held liable for mishaps on a trail on their property! I am a property owner with a self-made trail that makes me nervous about allowing anybody else to use, and as firmly as I believe in trails, I have to consider whether the allowing access is worth the possibility of losing everything I own.

Please pass HB0415A!!

Sincerely,

Kelley Griffin
HC 35 Box 5355 Z
Wasilla, AK 99654
907-373-1126
Voter ID# 07408940
Voter Precinct - Knik/ Goose Bay

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: Phyllis 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,

Phyllis 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

Louie Flora

From: POMS@legis.state.ak.us
Sent: Wednesday, March 22, 2006 10:51 AM
To: Louie Flora
Subject: New Pom:HB 415 Liability For Recreational Land Use

Tamara Schmidt
Po Box 65

Homer 99603-0065,

I strongly support HB 415 which addresses liability issues for landowners to allow recreational use of their private property. This legislation will enable us to expand recreational opportunities and protect land owners.

From: WEClark [W3CLARK@gci.net]
Sent: Tuesday, March 21, 2006 9:44 AM
To: Emily Stancliff
Subject: Voice support for HB 415

My name is Wayne G. Clark. I live at P.O. Box 164; Gustavus, Alaska 99826 (Spring, summer, fall), and the winters in Douglas, Alaska 99824. Due to the fact I will be on a boat in transit to Gustavus on Weds. March 22, I will not be able to phone in my support for the HB 415 hearing.

As a retired teacher who taught outdoor classes, a wilderness guide, hunter, and hiker, I feel the bill addresses the needed description of liability to landowners enabling them to allow free access to their lands. This I feel, will help to encourage future growth of the state's recreational trails. Many trails around the state are used by scores individuals to see the beauty of our State, and to appreciate its resources. Any steps to enhance their use should be strongly supported. It is the free access to our waters, and great trail systems that bring many back to enjoy our wonderful outdoors here, and seems to be the things many remember when they return from their visits.

Therefore, I ask your support for HB 415.

Sincerely,

wayne g. clark

(907)-364-3226/ (907) 697-2335/ (907) 209-1441(c)

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 [jkwalker@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 Box 1542
Homer, Alaska 99603
www.alaska.net/~walkerbroost
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 Kachemak 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: 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.

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 [dmahaff@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

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

Senate Resources

April 27, 2006

HB 419 Sponsor Packet

Cover Sheet _____	1 page
Sponsor Statement _____	1 page
Sectional Analysis _____	2 pages
HB0419a _____	2 pages
DEC Fiscal Note 3/21/06 _____	1 page
Total Pages: _____	7 pages

ALASKA STATE HOUSE OF REPRESENTATIVES



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Session

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State Capitol
Room 204**

REPRESENTATIVE JOHN COGHILL

HB 419 "Board of Storage Tank Assistance"

SPONSOR STATEMENT

In 1990 the Alaska Legislature passed HB 220 to create a state UST Program and a Storage Tank Assistance Fund in order to assist tank owners that were required to meet the deadlines set in the US Environmental Protection Agency (EPA) Underground Storage Tank Program.

In 1999, the year after EPA's deadline, the program began to phase out and was formally ended by the Legislature on June 30, 2004.

A loan program to assist owners with completing cleanup was established by SB 128, passed in 1999. The Storage Tank Assistance Fund was converted to the Underground Storage Tank Revolving Loan Fund in 2002.

The original legislation HB 220 also created the Board of Storage Tank Assistance to oversee state grants and loans. The Board is no longer needed since the grant program has been terminated and no loan applications have been received.

SB 128 established a June 30, 1999 sunset date for the board. Subsequent bills extended that date to June 30, 2007.

HB 419 will modify the end date for the board in order to be consistent with the end date for formal termination of the loan program. Additionally the bill lists out the statutes that relate to the board, the reporting, regulations, fees, revolving loan fund, loan program, definitions, uses of the fund, the respective administrative codes, the orderly completion of the board's obligations, and renumbering instructions related to those statutes repealed.

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REPRESENTATIVE JOHN COGHILL

HB419 – Repeal Board of Storage Tank Assistance

SECTIONAL

Section 1. AS 46.03.440(a) reworded to *former board of storage tank assistance* because this Board is being dissolved.

Section 2. This section lists the statutes that are being repealed, beginning with the Board of Storage Tank Assistance and Chapter 66 – Review of the activities of agencies, boards, and commissions AS 44.66.010(a)(7) – Expiration of Board of Storage Tank Assistance – June 30, 2007

Article 6 – Underground Storage Tank Systems

AS 46.03.360 – Board of storage tank assistance. *Board is being repealed.*

AS 46.03.363 – Reports. *Reports will no longer be required.*

AS 46.03.365 – Regulation of underground petroleum storage tank systems:

(d) Before adopting a regulation that sets a standard for the level of a contaminant that is allowed to remain in soil or groundwater after cleanup of a release from or associated with an underground petroleum storage tank, the department shall consult with the board. Before the department may adopt a regulation specifying allowable technologies for testing, containment and cleanup, or corrective action, the regulation must be approved by the board. *There is no longer a board to consult with or approve a regulation.*

AS 46.03.385 – Registration fee:

(e) The department shall deposit fees collected under this section into the underground storage tank revolving loan fund established under AS 46.03.410. *There will no longer be a revolving loan fund for registration fee deposits.*

AS 46.03.410 – Underground storage tank revolving loan fund. *Repealed in its entirety.*

AS 46.03.422 – Tank cleanup loan program. *Repealed in its entirety.*

AS 46.03.450 – Definitions:

- (1) "board"
- (3) "containment and cleanup"
- (5) "facility"
- (9) "risk assessment"
- (11) "tangible net worth"

AS 46.08.040 – Uses of the fund:

(a)(2)(G) *(a) In addition to money in the response account of the fund that is transferred to the commissioner of commerce, community, and economic development to make grants under AS 29.60.510 and to pay for impact assessments under AS 29.60.560, the commissioner of environmental conservation may use money (2) from the prevention account in the fund to (G) pay or reimburse the underground storage tank revolving loan fund established in AS 46.03.410 for expenditures from that fund authorized in AS 46.03.410(b).*

Section 3. The Alaska Administrative Codes that relate to the repealed statutes in Sec. 2 above, are annulled.

Section 4. This section allows for an orderly completion of obligations, rights, liabilities, and contracts that were entered into prior to the Board of Storage Tank Assistance being repealed.

Section 5. This instruction is given because AS 46.03.360 and 46.03.363 are repealed in Sec. 2 above. There is no reason for statutes that have been repealed to be referenced.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 419
(H) Publish Date: 3/24/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
Title: Repeal Underground Storage Tank Laws RDU: Spill Prevention and Response
Component: Contaminated Sites
Sponsor: Representative John Coghill
Requester: House Resources Committee Component No.: 2386

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) 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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The storage tank financial assistance program was established by the legislature to provide technical and financial assistance to underground tank owners and operators in an effort to prevent new spills and cleanup old spills from underground storage tanks (UST). The Storage Tank Assistance Fund began in 1990 as a grant program to assist UST owners with the cost of tank tightness testing, site assessment, clean up of contamination caused by leaking USTs, and removal, upgrade, or replacement of UST systems. The Board of Storage Tank Assistance was established to rank requests for grants and loans, and determine which costs were eligible under the financial assistance program. In 2002, SB 153 renamed the fund the Underground Storage Tank Revolving Loan Fund (USTRLF), and mandated that DEC could not pay money for grants after June 30, 2004. The grant program was successfully closed by the required date, and no loan requests have been received. Since no more grants can be issued, and no loan requests have been or are expected to be received, repealing the Board and the Fund should not have an impact. UST permit fees, which are directed to the USTRLF and amount to approximately \$35,000 per year will be deposited in the General Fund.

Prepared by: Larry Dietrick
Division: Spill Prevention and Response
Approved by: Dan Easton, Deputy Commissioner
Agency: Department of Environmental Conservation

Phone 907-465-5250
Date/Time March 17, 2006 3:40 p.m.
Date 3/21/2006