

**HB**

**25**



# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB025-DOA-RM-01-18-07  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 1/17/2007 Dept. Affected: Administration  
 Title An act relating to landowners' immunity RDU Risk Management  
for allowing recreational activity Component Risk Management  
 Sponsor Representative Seaton, Wilson  
 Requester House Resources Component No. 71

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 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 1/18/07 10:00 AM  
 Approved by: Kevin Brooks, Deputy Commissioner Date 1/22/2007  
 Agency Department of Administration

# REPRESENTATIVE PAUL SEATON

## SESSION ADDRESS

State Capitol Building  
Juneau, Alaska 99801-1182  
(907) 465-2689  
Fax: (907) 465-3472  
1-800-665-2689

## INTERIM ADDRESS

345 W. Sterling Highway  
Homer, Alaska 99603  
(907) 235-2921  
Fax: (907) 235-4008  
1-800-665-2689

ALASKA STATE LEGISLATURE  
House District 35

## MEMORANDUM

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**TO:** Representative Johnson, Co-Chair  
House Resources Committee

**FROM:** Representative Paul Seaton



**DATE:** Thursday, January 19, 2007

**RE:** Hearing Request for HB 25

I respectfully request a hearing before the House Resources Committee on HB 25: "An Act relating to landowners' immunity for allowing use of land without charge for a recreational activity; relating to landowners' liability where landowner conduct involves gross negligence or reckless or intentional misconduct; relating to claims of adverse possession and prescriptive easements, or similar claims; and providing for an effective date."

In summary, HB 25 delineates the duties of landowners who allow free recreational use of their lands.

Attached, please find a copy of HB 25; sponsor statement; sectional analysis; recreation use statute comparison chart with other states; letters of support.

Staff contact: Katie Shows, ext. 2028

# REPRESENTATIVE PAUL SEATON

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## ALASKA STATE LEGISLATURE House District 35

### HB 25 Sponsor Statement

House Bill 25 encourages recreational use of private lands by protecting landowners who allow free public access to their lands.

HB 25 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 25 eliminates these ambiguities by granting immunity for the recreational use of private lands in the same manner adopted by most other states.

HB 25 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) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

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

## MEMORANDUM

January 18, 2007

**SUBJECT:** Sectional summary (HB 25 (Work Order No. 25-LS0174A))

**TO:** Representative Paul Seaton  
Attn: Katie Shows

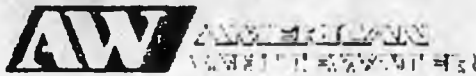
**FROM:** Dennis C. Bailey *DCB*  
Legislative Counsel

You have requested a sectional summary of the above described 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. Since you have not asked particular questions about the bill, the summary is intentionally brief.

**Section 1.** Limits the duties owed by a landowner who allows recreational activity, without charge, on the landowner's land unless the landowner acts intentionally or recklessly, or is grossly negligent. Also, provides that recreational land use may not form the basis for a claim of adverse possession or similar claim.

If I may be of further assistance, please advise.

DCB:med  
07-027.med



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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
<b>Alabama</b>						
Alabama Code §35-15-1	1965, 1981	No	No	No	Yes	No, if use of land is non-commercial
<b>Alaska</b>						
Alaska Stat. §09.65.200	1980	Not Specified	Not Specified	Not Specified	Yes	Yes
<b>Arizona</b>						
Arizona Rev. Stat. Ann. §33-1551	1983	Not Specified	Not Specified	Not Specified	Yes	Yes
<b>Arkansas</b>						
Arkansas Stat.	1965,	No	No	No	Yes	Yes, but fees

Des. Pub land law

Y Y

Y Y

<u>Ann. §18-11-301</u>	1983, 1991					from land leased to public agency allowed
<b>California</b>						
<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
<b>Colorado</b>						
<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
<b>Connecticut</b>						
<u>Connecticut Gen. Stat. §52-557(f)</u>	1971, 1990	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Delaware</b>						
<u>Delaware Code Ann. §7-VI-5901</u>	1953	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Florida</b>						
<u>Florida State. Ann. §XXVIII-375.251</u>	1963	No	No	No	Yes	Yes
<b>Georgia</b>						
<u>Georgia Code Ann. §51-3-20</u>	1965	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Hawaii</b>						
<u>Hawaii Rev. Stat. §3-28-520-1</u>	1969	No	No	No	Yes	Yes, but fees from land leased to

						public agency allowed
<b>Idaho</b>						
<u>Idaho Code §36-16</u>	1976, 1988	No	No	No	Not Specified	Yes
<b>Illinois</b>						
<u>Illinois Ann. Stat. §745-65-1</u>	1965	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Indiana</b>						
<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
<b>Iowa</b>						
<u>Iowa Code Ann. §XI-2-461(C)</u>	1967	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Kansas</b>						
<u>Kansas Stat. Ann. §58-3201</u>	1965, 1988	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Kentucky</b>						
<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
<b>Louisiana</b>						
<u>Louisiana Rev. Stat. Ann. §9-III-V-2-2791 &amp; 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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<b>16-301</b>						
<b>Nebraska</b>						
<u>Nebraska Rev. Stat. §37-730</u>	1965, 1998	No	No	No	Yes	Yes, except can charge group rates & not lose Immunity
<b>Nevada</b>						
<u>Nevada Rev. Stat. §41.510</u>	1963, 1995	No	No	No	Yes	Yes
<b>New Hampshire</b>						
<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
<b>New Jersey</b>						
<u>New Jersey Stat. Ann. §13-1(B)B-15-133</u>	1968, 1984	No	No	No	Yes	Yes
<b>New Mexico</b>						
<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
<b>New York</b>						
<u>New York Gen. Oblig. Law §9-103</u>	1963	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>North Carolina</b>						
<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
<b>North Dakota</b>						
<u>North Dakota Cent. Code §53-</u>	1965, 1993	No	No	No	Yes	Yes, but fees from land

08-1						leased to public agency allowed
<b>Ohio</b>						
Ohio Rev. Code Ann. §XV-33-18	1963, 1995	No	Not Specified	No	Not Specified	Yes
<b>Oklahoma</b>						
Oklahoma Stat. Ann. Title §76-10	1965, 1994	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Oregon</b>						
Oregon Rev. Stat. §105.672	1971, 1995	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Pennsylvania</b>						
Pennsylvania Stat. Ann. §68-11-477	1965	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Rhode Island</b>						
Rhode Island Gen. Law §32-6-1	1978	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>South Carolina</b>						
South Carolina Code Ann. §27-3-10	1962	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>South Dakota</b>						
South Dakota Comp. Laws Ann. §20-9-11	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. &amp; 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 &amp; §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 §20-3b-1 to 5						
<b>Wisconsin</b>						
Wisconsin Stat. Ann. §895.52	1963, 1995	No	No	No	Not Specified	No, so long as total revenues don't exceed \$2000 annually
<b>Wyoming</b>						
Wyoming Stat. Ann. §34-19-101	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:

## Letters of Support –HB 25

(Please note: the letters reference HB 415, legislation identical to HB 25 introduced last session)

### Organizations

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Alaska State Chamber of Commerce  
National Rifle Association of America  
Kenai Peninsula Borough (Resolution)  
City of Homer (Resolution)  
Alaska Trails  
State Farm Insurance council, Lessmeier & Winters  
Kachemak Heritage Land Trust  
Coalition for Open Space and Trails  
Alaska Outdoor Council (write-up in Outdoor Alaska publication)  
Homer Soil and Water Conservation District

### Individuals

---

James & Dianne Mahaffey	Anchorage
Kelley Griffin (Matsu Sled Dog Council)	Wasilla
Wayne Clark	Gustavus
Kathryn Kennedy	Ninilchik
Dave & Molly Brann (Kachemak Ski Club)	Homer
Carol Grace (Snowmands Snowmachine Club)	Homer

Additional letters of support from the following individuals available upon request from the sponsor:

Milli Martin	Homer
Lois Bettini	Homer
Kevin & Jeanne Walker	Homer
Roberta Highland	Homer
Al Poindexter	Homer
David Scheer	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

**Headquarters:**  
217 2nd Street, Suite 201  
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(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

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,

A handwritten signature in black ink, appearing to read "Wayne A. Stevens". The signature is written in a cursive style and is positioned above the typed name and title.

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



**NATIONAL RIFLE ASSOCIATION OF AMERICA**

INCORPORATED 1871

**11250 WAPLES MILL ROAD  
FAIRFAX, VA 22030**

5 May 2006

Brad Kruger  
AK NRA Field Representative  
PO Box 1098  
Homer, AK 99603

Dear Rep Seaton,

I am writing you today in support of HB 415.

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.

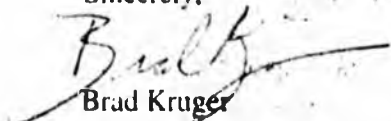
Unfortunately current state law does not directly address recreational use of private lands. Alaska's Recreational Activities statute, AS.09.65.290, passed by the legislature in 2003, mainly addresses commercial operators. Some landowners are protected by Alaska's unimproved land statute, AS.09.65.200, 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.

Thank you for listening.

Sincerely,

  
Brad Kruger  
AK NRA Field Rep

Introduced by:

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

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**

**RESOLUTION 06-30**

Mayor/  
Parks & Recreation  
Commission

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.



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](http://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".

Jack Mosby  
President



## Kachemak Heritage Land Trust

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

**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@pd.net

Via Telefax to 465-3472

February 14, 2006

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

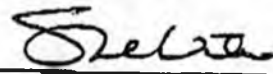
**Re: House Bill 415**

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

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

Highway. With support from the AOC Representative Bill Stoltze and Charlie Huggins sponsored legislation to create the **Knik River Public Use Area** after some people proposed banning ATVs and airboats from the area. The Department of Natural Resources will now initiate a public process to determine just how the area is regulated. Watch for more details here, or in AOC Email Alerts.

Rep. Stoltze introduced legislation that would **allow the Mat-Su Borough to take state land** from the Hatcher Pass Public Use Area. AOC opposed this legislation because the Mat-Su Borough has failed to allow reasonable access to public lands. AOC opposes giving the Borough more land until they allow public access to the public land they have now. After it became clear that the Borough had failed to gain support of Mat-Su residents in their quest to take lands out of the public use area, Rep. Stoltze withdrew his legislation, effectively killing the land transfer for another year.

Long-time AOC supporter Senator Ralph Seekins introduced SB 170 last year in an effort to combine an **increase in hunting and trapping fees with several changes to Fish and Game statutes (Title 16)**. AOC testified on the bill last summer when the Senate Resources Committee held hearings around the state. Senator Seekins brought the bill up again this year, with support from AOC, but ran out of time. AOC's proposed changes to the fish and game statutes were addressed in the Spring 2006 newsletter. AOC will continue to work with legislators during the next session to secure needed funding from license holders for active game management.

For some time now Senator Seekins has been trying to open up state land in the **Dalton Highway corridor** from the Yukon River north. Current law bans off-road vehicles from operation for 5-miles on either side of the road. Seekins sponsored SB 85, which would repeal the ban and start a planning process within DNR to implement rules for ORV use in the corridor. BLM has also begun preliminary plans for developing a comprehensive off-highway vehicle plan in partnership with the state. The bill passed the Senate but fell short in the House. AOC supported SB 85 just as we support most legislation to allow access to state land as long as regulations are in place to maintain the high quality of the wildlife habitat. We hope Senator Seekins will re-introduce this legislation to allow more Alaskans to enjoy the outdoors.

Over the past couple of years legislators have introduced various versions of a bill that would create a **wildlife viewing fee**. Again this year there were bills in both the House and Senate. Senator Con Bunde sponsored SB 166, which would require that anyone between 16 and 60 pay a \$5 fee to view Alaska's wildlife. The fee would be waived for anyone who already holds a hunting, trapping or fishing license. SB 166 died in the Senate Resources Committee. Look for some version of this idea to surface again next year.

Rep. Paul Seaton, of Homer, introduced HB 415, which would have held **landowners immune from liability** if they allowed access to their lands free of charge. There are cases where public recreational lands are separated by sections of private land. The private land holders don't oppose people crossing their land, but fear the potential for liability. Seaton tried to waive that liability if the land owners warn of any dangerous conditions. The bill passed the House, but never got a vote in the Senate. Chances are that a bill similar to HB 415 will be re-introduced next year.

Two management bills that didn't make it were HB 464 and HB 472. HB 464 was introduced by AOC member and outdoorsman Rep. Eric Croft and would have prohibited a hunter from taking the horns or antlers unless they **salvaged at least 50% of the meat** from the kill. The House Resources Committee held a couple of good hearings on this bill late in the session. Rather than supporting a reduction in the amount of meat currently required by law for salvage, which is essentially *all* the edible meat, AOC used the hearings to again advocate for stronger enforcement of game laws. HB 464 died in the House Judiciary Committee. HB 472 was introduced by our good friend Rep. Bill Stoltze and would have put the **Susitna Drainage Salmon Management Plan**, currently in policy, into statute. ADF&G opposed this legislation stating that they oppose putting regulations into statute because policy language is too specific to be appropriate for statutory language. AOC supported this bill because we believe that the present commercial fisheries interest domination of the Alaska Board of Fisheries has been detrimental to the sustainability of some salmon runs in the past. Unfortunately, the bill was referred to the House Special Committee on Fisheries where it met a quick death at the hands of legislators from commercial fishing districts.

AOC actively supported new members to the **Boards of Fisheries (BOF) and Game (BOG)**. Governor Murkowski appointed **Jeremiah Campbell** to the BOF, first to fill the remainder of an unexpired term, and then for a new 3-year term. Mr. Campbell has experience in both commercial and sport fishing, and we were impressed with his knowledge of, and concern for, in-river fisheries. Mr. Campbell's votes on the board regarding salmon returns to the Copper River and upper Susitna drainage showed his concern for sustainable salmon runs. AOC worked with Kenai River Sportfishing Association in supporting Mr. Campbell's confirmation. We are especially appreciative of the efforts of Cook Inlet Sportfishing Caucus member, Bob Penney, during this exercise.

AOC also supported the confirmation of long-time AOC supporter **Bonnie Williams** of Fairbanks to the BOF. Bonnie has served with distinction on the Fairbanks North Star Borough Assembly. Bonnie has been an avid personal use fisher for 55 years in Alaska and has a strong personal dedication to maintaining the integrity of Alaska's wildlife regulatory development process, which considers the opinions and experience of all individuals who use and enjoy fish and game. In her testimony during confirmation hearings before the Legislature, Bonnie affirmed her commitment to ensuring healthy, strong fisheries that sustain and meet the needs of subsistence, sport/personal use, and commercial fishing in Alaska.

AOC appreciated Governor Murkowski's reappointment of **Cliff Judkins** of Wasilla to a second term on the Board of Game. The Governor also added two new BOG members, **Dick Burley** of Fairbanks and **Paul Johnson** of Unalakleet. They were confirmed by the legislature with AOC's full support. Mr. Burley previously served on the Board of Game a few years back and did a very admirable job as chairman, maintaining a balanced and objective approach. His service was very beneficial to AOC's membership and we now look forward to another term for Mr. Burley on the BOG.

Members of the Boards of Fisheries Game have one of the toughest jobs in the state. AOC recognizes the personal commitment every one of these Alaskans makes when they accept an appointment. We thank them all. ■



4014 Lake Street, suite 201  
Homer, Alaska 99603  
907-235-8177 ext. 5  
[hswcd@xyz.net](mailto:hswcd@xyz.net)

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

Dear Representative Seaton:

During our February 9<sup>th</sup> 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 black ink, appearing to read "Shirley Schollenberg", written in a cursive style.

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."*

**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:** 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 everyday. 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

---

**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:** 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:** 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:** 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

January 23, 2007

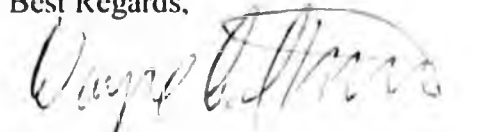
Representative Carl Gatto, Co-Chair  
Representative Craig Johnson, Co-Chair  
& Members of the House Resources Committee  
State Capitol  
Juneau, Alaska 99801

Co-Chairs and Members of the House Resources Committee,

The Alaska State Chamber of Commerce supports House Bill 25. 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 25 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 25 may have additional benefits by creating opportunities in Alaska's remotest locations. The state chamber encourages your constructive work with regards to HB 25 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

**Headquarters**

217 2nd Street  
Suite 201  
Juneau  
Alaska 99801  
(907) 586-2323  
FAX 463-5515

**Regional Office**

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

**Debra Higgins**

---

**From:** Katie Shows

**Sent:** Tuesday, January 23, 2007 10:53 AM

**To:** Debra Higgins

Hi Debbie,

Sorry I do not have a list of those who are going to testify tomorrow afternoon o.. HB 25 in House Resources – I sent out a general email and imagine that more people are going to testify than have let me know.

I do know that the following will be on line in Homer.

Milli Martin, Borough Assembly Member – Kenai Peninsula Borough  
b Seaman (or staff), Executive Director, Kachemak Heritage Land Trust

I am hoping many more, from all over the state of course ☺

In addition, people have been sending in additional emails/letters of support that are updated to reflect HB 25 (instead of HB 415 from last year). I will plan on getting those to you by the end of the day to give people a little more time to send things in.

And on finial thing – I need the off net number for the Director of Kachemak Heritage Land Trust to call in. If she is not able to call in (she will be traveling), I will have her staff go to the LIO.

Thanks!

Katie

OFFNET Dick MILIUS @ DNR - Lands Manager in Anch  
269-8625





# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB025-DOA-RM-01-18-07  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 1/17/2007 Dept. Affected: Administration  
 Title An act relating to landowners' immunity RDU Risk Management  
for allowing recreational activity Component Risk Management  
 Sponsor Representative Seaton, Wilson  
 Requester House Resources Component No. 71

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 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  
 Division: Risk Management  
 Approved by: Kevin Brooks, Deputy Commissioner  
 Agency: Department of Administration

Phone 465-5723  
 Date/Time 1/18/07 10:00 AM  
 Date 1/22/2007

# REPRESENTATIVE PAUL SEATON

**SESSION ADDRESS**  
State Capitol Building  
Juneau, Alaska 99801-1182  
(907) 465-2689  
Fax: (907) 465-3472  
1-800-665-2689



**INTERIM ADDRESS**  
345 W. Sterling Highway  
Homer, Alaska 99603  
(907) 235-2921  
Fax: (907) 235-4008  
1-800-665-2689

**ALASKA STATE LEGISLATURE**  
House District 35

## MEMORANDUM

**TO:** Representative Johnson, Co-Chair  
House Resources Committee

**FROM:** Representative Paul Seaton *Paul*

**DATE:** Thursday, January 19, 2007

**RE:** Hearing Request for HB 25

I respectfully request a hearing before the House Resources Committee on HB 25: "An Act relating to landowners' immunity for allowing use of land without charge for a recreational activity; relating to landowners' liability where landowner conduct involves gross negligence or reckless or intentional misconduct; relating to claims of adverse possession and prescriptive easements, or similar claims; and providing for an effective date."

In summary, HB 25 delineates the duties of landowners who allow free recreational use of their lands.

Attached, please find a copy of HB 25; sponsor statement; sectional analysis; recreation use statute comparison chart with other states; letters of support.

Staff contact: Katie Shows, ext. 2028

# REPRESENTATIVE PAUL SEATON

**SESSION ADDRESS**  
State Capitol Building  
Juneau, Alaska 99801-1182  
(907) 465-2689  
Fax: (907) 465-3472  
1-800-665-2689



**INTERIM ADDRESS**  
345 W. Sterling Highway  
Homer, Alaska 99603  
(907) 235-2921  
Fax: (907) 235-4008  
1-800-665-2689

**ALASKA STATE LEGISLATURE**  
House District 35

## **HB 25** **Sponsor Statement**

House Bill 25 encourages recreational use of private lands by protecting landowners who allow free public access to their lands.

HB 25 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 25 eliminates these ambiguities by granting immunity for the recreational use of private lands in the same manner adopted by most other states.

HB 25 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) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

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

## MEMORANDUM

January 18, 2007

**SUBJECT:** Sectional summary (HB 25 (Work Order No. 25-LS0174\A))

**TO:** Representative Paul Seaton  
Attn: Katie Shows

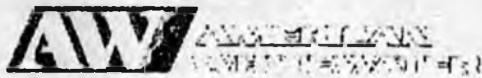
**FROM:** Dennis C. Bailey *DCB*  
Legislative Counsel

You have requested a sectional summary of the above described bill. As a preliminary matter, note that a sectiona' summary of a bill should not be considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents. Since you have not asked particular questions about the bill, the summary is intentionally brief.

**Section 1.** Limits the duties owed by a landowner who allows recreational activity, without charge, on the landowner's land unless the landowner acts intentionally or recklessly, or is grossly negligent. Also, provides that recreational land use may not form the basis for a claim of adverse possession or similar claim.

If I may be of further assistance, please advise.

DCB:med  
07-027.med



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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
<b>Alabama</b>						
<u>Alabama Code §35-15-1</u>	1965, 1981	No	No	No	Yes	No, if use of land is non-commercial
<b>Alaska</b>						
<u>Alaska Stat. §09.65.200</u>	1980	Not Specified	Not Specified	Not Specified	Yes	Yes
<b>Arizona</b>						
<u>Arizona Rev. Stat. Ann. §33-1551</u>	1983	Not Specified	Not Specified	Not Specified	Yes	Yes
<b>Arkansas</b>						
<u>Arkansas Stat.</u>	1965,	No	No	No	Yes	Yes, but fees

Des. Pul  
land law

Y Y

Y Y

<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
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**Hawaii**

<u>Hawaii Rev. Stat. §3-28-520-1</u>	1969	No	No	No	Yes		Yes, but fees from land leased to
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						public agency allowed
<b>Idaho</b>						
<u>Idaho Code 636-16</u>	1976, 1988	No	No	No	Not Specified	Yes
<b>Illinois</b>						
<u>Illinois Ann. Stat. §745-65-1</u>	1965	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Indiana</b>						
<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
<b>Iowa</b>						
<u>Iowa Code Ann. §XI-2-461(C)</u>	1967	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Kansas</b>						
<u>Kansas Stat. Ann. §58-3201</u>	1965, 1988	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Kentucky</b>						
<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
<b>Louisiana</b>						
<u>Louisiana Rev. Stat. Ann. §9-III-V-2-2791 &amp; 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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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)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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08-1						leased to public agency allowed
<b>Ohio</b>						
Ohio Rev. Code Ann. §XV-33-18	1963, 1995	No	Not Specified	No	Not Specified	Yes
<b>Oklahoma</b>						
Oklahoma Stat. Ann. Title §76-10	1965, 1994	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Oregon</b>						
Oregon Rev. Stat. §105.672	1971, 1995	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Pennsylvania</b>						
Pennsylvania Stat. Ann. §68-11-477	1965	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>Rhode Island</b>						
Rhode Island Gen. Law §32-6-1	1978	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>South Carolina</b>						
South Carolina Code Ann. §27-3-10	1962	No	No	No	Yes	Yes, but fees from land leased to public agency allowed
<b>South Dakota</b>						
South Dakota Comp. Laws Ann. §20-9-11	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. &amp; 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 &amp; §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>						
<b>Wisconsin</b>						
<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
<b>Wyoming</b>						
<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:

## Letters of Support –HB 25

(Please note: the letters reference HB 415, legislation identical to HB 25 introduced last session)

### Organizations

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Alaska State Chamber of Commerce  
National Rifle Association of America  
Kenai Peninsula Borough (Resolution)  
City of Homer (Resolution)  
Alaska Trails  
State Farm Insurance council, Lessmeier & Winters  
Kachemak Heritage Land Trust  
Coalition for Open Space and Trails  
Alaska Outdoor Council (write-up in Outdoor Alaska publication)  
Homer Soil and Water Conservation District

### Individuals

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James & Dianne Mahaffey	Anchorage
Kelley Griffin (Matsu Sled Dog Council)	Wasilla
Wayne Clark	Gustavus
Kathryn Kennedy	Ninilchik
Dave & Molly Brann (Kachemak Ski Club)	Homer
Carol Grace (Snowmands Snowmachine Club)	Homer

Additional letters of support from the following individuals available upon request from the sponsor:

Milli Martin	Homer
Lois Bettini	Homer
Kevin & Jeanne Walker	Homer
Roberta Highland	Homer
Al Poindexter	Homer
David Scheer	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

**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

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



**NATIONAL RIFLE ASSOCIATION OF AMERICA**

INCORPORATED 1871

**11250 WAPLES MILL ROAD  
FAIRFAX, VA 22030**

5 May 2006

Brad Kruger  
AK NRA Field Representative  
PO Box 1098  
Homer, AK 99603

Dear Rep Seaton,

I am writing you today in support of HB 415.

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.

Unfortunately 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 and owners, encouraging them to allow the public free recreational use of their lands.

Thank you for listening.

Sincerely,

  
Brad Kruger  
AK NRA Field Rep

Introduced by:

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

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.



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](http://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".

Jack Mosby  
President



## Kachemak Heritage Land Trust

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

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

February 14, 2006

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

0015-006/Letter to Seaton re HB 415.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

way. With support from the AOC Representative Bill Stoltze and Senator Charlie Huggins sponsored legislation to create the **Knik River Public Use Area** after some people proposed banning ATVs and airboats from the area. The Department of Natural Resources will now initiate a public process to determine just how the area is regulated. Watch for more details here, or in AOC Email Alerts.

Rep. Stoltze introduced legislation that would **allow the Mat-Su Borough to take state land** from the Hatcher Pass Public Use Area. AOC opposed this legislation because the Mat-Su Borough has failed to allow reasonable access to public lands. AOC opposes giving the Borough more land until they allow public access to the public land they have now. After it became clear that the Borough had failed to gain support of Mat-Su residents in their quest to take lands out of the public use area, Rep. Stoltze withdrew his legislation, effectively killing the land transfer for another year.

Long-time AOC supporter Senator Ralph Seekins introduced SB 170 last year in an effort to combine an **increase in hunting and trapping fees with several changes to Fish and Game statutes (Title 16)**. AOC testified on the bill last summer when the Senate Resources Committee held hearings around the state. Senator Seekins brought the bill up again this year, with support from AOC, but ran out of time. AOC's proposed changes to the fish and game statutes were addressed in the Spring 2000 newsletter. AOC will continue to work with legislators during the next session to secure needed funding from license holders for active game management.

For some time now Senator Seekins has been trying to open up state land in the **Dalton Highway corridor** from the Yukon River north. Current law bans off-road vehicles from operation for 5-miles on either side of the road. Seekins sponsored SB 85, which would repeal the ban and start a planning process within DNR to implement rules for ORV use in the corridor. BLM has also begun preliminary plans for developing a comprehensive off-highway vehicle plan in partnership with the state. The bill passed the Senate but fell short in the House. AOC supported SB 85 just as we support most legislation to allow access to state land as long as regulations are in place to maintain the high quality of the wildlife habitat. We hope Senator Seekins will re-introduce this legislation to allow more Alaskans to enjoy the outdoors.

Over the past couple of years legislators have introduced various versions of a bill that would create a **wildlife viewing fee**. Again this year there were bills in both the House and Senate. Senator Con Bunde sponsored SB 166, which would require that anyone between 16 and 60 pay a \$5 fee to view Alaska's wildlife. The fee would be waived for anyone who already holds a hunting, trapping or fishing license. SB 166 died in the Senate Resources Committee. Look for some version of this idea to surface again next year.

Rep. Paul Seaton, of Homer, introduced HB 415, which would have **landowners immune from liability** if they allowed access to their lands free of charge. There are cases where public recreational lands are separated by sections of private land. The private land holders don't oppose people crossing their land, but fear the potential for liability. Seaton tried to waive that liability if the land owners warn of any dangerous conditions. The bill passed the House, but never got a vote in the Senate. Chances are that a bill similar to HB 415 will be re-introduced next year.

Two management bills that didn't make it were HB 464 and HB 472. HB 464 was introduced by AOC member and outdoorsman Rep. Eric Croft and would have prohibited a hunter from taking the horns or antlers unless they **salvaged at least 50% of the meat** from the kill. The House Resources Committee held a couple of good hearings on this bill late in the session. Rather than supporting a reduction in the amount of meat currently required by law for salvage, which is essentially *all* the edible meat, AOC used the hearings to again advocate for stronger enforcement of game laws. HB 464 died in the House Judiciary Committee. HB 472 was introduced by our good friend Rep. Bill Stoltze and would have put the **Susitna Drainage Salmon Management Plan**, currently in policy into statute. ADF&G opposed this legislation stating that they opposed putting regulations into statute because policy language is too specific to be appropriate for statutory language. AOC supported this bill because we believe that the present commercial fisheries interest domination of the Alaska Board of Fisheries has been detrimental to the sustainability of some salmon runs in the past. Unfortunately, the bill was referred to the House Special Committee on Fisheries where it met a quick death at the hands of legislators from commercial fishing districts.

AOC actively supported new members to the **Boards of Fisheries (BOF) and Game (BOG)**. Governor Murkowski appointed **Jeremiah Campbell** to the BOF, first to fill the remainder of an unexpired term and then for a new 3-year term. Mr. Campbell has experience in both commercial and sport fishing, and we were impressed with his knowledge of, and concern for, in-river fisheries. Mr. Campbell's votes on the board regarding salmon returns to the Copper River and upper Susitna drainage showed his concern for sustainable salmon runs. AOC worked with Kenai River Sportfishing Association in supporting Mr. Campbell's confirmation. We are especially appreciative of the efforts of Cook Inlet Sportfishing Caucus member, Bob Penney, during this exercise.

AOC also supported the confirmation of long-time AOC supporter **Bonnie Williams** of Fairbanks to the BOF. Bonnie has served with distinction on the Fairbanks North Star Borough Assembly. Bonnie has been an avid personal use fisher for 55 years in Alaska and has a strong personal dedication to maintaining the integrity of Alaska's wildlife regulatory development process, which considers the opinion and experience of all individuals who use and enjoy fish and game. In her testimony during confirmation hearings before the Legislature Bonnie affirmed her commitment to ensuring healthy, strong fisheries that sustain and meet the needs of subsistence, sport/personal use, and commercial fishing in Alaska.

AOC appreciated Governor Murkowski's reappointment of **Cliff Judkins** of Wasilla to a second term on the Board of Game. The Governor also added two new BOG members, **Dick Burley** of Fairbanks and **Paul Johnson** of Uyakleet. They were confirmed by the legislature with AOC's full support. Mr. Burley previously served on the Board of Game a few years back and did a very admirable job as chairman, maintaining a balanced and objective approach. His service was very beneficial to AOC's membership and we now look forward to another term for Mr. Burley on the BOG.

Members of the Boards of Fisheries Game have one of the toughest jobs in the state. AOC recognizes the personal commitment every one of these Alaskans makes when they accept an appointment. We thank them all. ■



4014 Lake Street, suite 201  
Homer, Alaska 99603  
907-235-8177 ext. 5  
[hswcd@xyz.net](mailto:hswcd@xyz.net)

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

Dear Representative Seaton:

During our February 9<sup>th</sup> 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

Ian Laing

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**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

lan. Laing

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**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 everyday. 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 HB0415All

Sincerely,

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

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**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**

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**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**

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**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

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**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

# REPRESENTATIVE PAUL SEATON

## SESSION ADDRESS

State Capitol Building  
Juneau, Alaska 99801-1182  
(907) 465-2689  
Fax: (907) 465-3472  
1-800-665-2689



## INTERIM ADDRESS

345 W. Sterling Highway  
Homer, Alaska 99603  
(907) 235-2921  
Fax: (907) 235-4008  
1-800-665-2689

ALASKA STATE LEGISLATURE  
House District 35

## MEMORANDUM

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**TO:** Representative Johnson, Co-Chair  
House Resources Committee

**FROM:** Representative Paul Seaton *Paul*

**DATE:** Thursday, January 19, 2007

**RE:** Hearing Request for HB 25

I respectfully request a hearing before the House Resources Committee on HB 25: "An Act relating to landowners' immunity for allowing use of land without charge for a recreational activity; relating to landowners' liability where landowner conduct involves gross negligence or reckless or intentional misconduct; relating to claims of adverse possession and prescriptive easements, or similar claims; and providing for an effective date."

In summary, HB 25 delineates the duties of landowners who allow free recreational use of their lands.

Attached, please find a copy of HB 25; sponsor statement; sectional analysis; recreation use statute comparison chart with other states; letters of support.

Staff contact: Katie Shows, ext. 2028

January 23, 2007

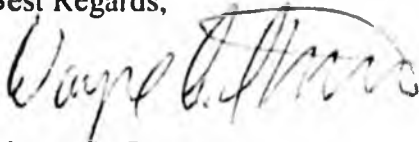
Representative Carl Gatto, Co-Chair  
Representative Craig Johnson, Co-Chair  
& Members of the House Resources Committee  
State Capitol  
Juneau, Alaska 99801

Co-Chairs and Members of the House Resources Committee,

The Alaska State Chamber of Commerce supports House Bill 25. 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 25 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 25 may have additional benefits by creating opportunities in Alaska's remotest locations. The state chamber encourages your constructive work with regards to HB 25 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

Headquarters

117, 2005 Third  
Street, Suite 201  
Juneau, Alaska  
99801-9901  
Phone: 907-586-2211  
Fax: 907-586-2212

Regional Office

601 W. 9th Ave.  
Suite 201  
Anchorage  
Alaska, 99501  
Phone: 907-561-2211  
Fax: 907-561-2212

HB 25

2/12

HB 25

Work up  
an Amendment  
(for Senate Side)

36 ~~of~~  
4 N

for NO TRESPASSING

If land is posted / it would

be the same as someone

who gives permission, should

have the same standard of

~~gross~~ negligence

Crumberg - floor session on 2/12

alluded to issue of negligence and pg 1, line 9  
"directly or indirectly" - used in federal  
cases. Had leg. legal book at that this  
weekend. Is compatible with language.

→ Need to talk to Sen. McGuire's  
staff - re: amendment for ~~the bill~~  
applying standard of negligence