

SENATE BILL NO. 164

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR STEDMAN

Introduced: 3/25/09

Referred: Community and Regional Affairs, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an easement or right-of-way necessary to provide access to navigable**
2 **or public water."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 14.40.365(f) is amended to read:

5 (f) Before conveying land under this section, the commissioner of natural
6 resources shall reserve access under AS 38.05.127, but other provisions of AS 38.04
7 and AS 38.05 do not apply to the commissioner's preparation for conveyance of land
8 to the Board of Regents in trust for the University of Alaska under this section. In
9 addition to access under AS 38.05.127, the commissioner may reserve in the
10 conveyance document existing offshore uses such as aquatic fish farm sites,
11 anchorages for vessels, fish buying stations, trails, roads, and other access routes that
12 provide public access to adjacent land and public waterways; however, an easement
13 along tidewater reserved by the commissioner under AS 38.05.127 may not

14 **(1) exceed a width of 10 [25] feet above the mean high water line**

1 **and 10 feet below the mean high water line; and**

2 **(2) be used for a purpose other than pedestrian access.**

3 * **Sec. 2.** AS 38.05.127(d) is amended to read:

4 (d) Upon application by a municipality or an affected owner of land, the
5 department may vacate, release, modify, or relocate an easement and right-of-way for
6 public access to or along navigable or public waters reserved by the department in a
7 patent issued under AS 29.65 or former AS 29.18, if the commissioner determines the
8 action is consistent with the public interest. **Before making the determination in this**
9 **subsection, the commissioner shall provide public notice and the opportunity to**
10 **comment to a municipality or local platting authority with jurisdiction over the**
11 **location of the easement or right-of-way and to local residents that would be**
12 **directly affected by the proposed determination. When making the**
13 **determination, the commissioner shall give substantial weight to comments**
14 **received from a municipality, platting authority, or local resident that would be**
15 **directly affected by the determination.**

16 * **Sec. 3.** AS 38.05.127 is amended by adding a new subsection to read:

17 (h) A right-of-way or easement

18 (1) along tidewater established under (a)(2) of this section may not

19 (A) exceed a width of 10 feet; and

20 (B) be used for a purpose other than pedestrian access;

21 (2) to tidewater established under (a) (2) of this section may not

22 (A) exceed a width of 25 feet; and

23 (B) be used for a purpose other than noncommercial pedestrian

24 access.

25 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 APPLICABILITY. Sections 1 and 3 of this Act apply to an easement or right-of-way
28 necessary to ensure free access to and along tidewater provided for by the commissioner of
29 natural resources before the sale, lease, grant, or other disposal of an interest in state land after
30 the effective date of this Act, including a conveyance of land to the Board of Regents in trust
31 for the University of Alaska under AS 14.40.365.