

Sponsor Statement For House Bill 376

Fish & Game in Navigable Waters

An Act relating to management of fish and game in and on the navigable waters and submerged lands of Alaska

This bill affirms that the State of Alaska has not assented to federal control of fish and game in and on the navigable waters and submerged lands of Alaska. The actions of Governor Knowles by not appealing the [John v U.S.](#) case to the United States Supreme Court prompted introduction of this legislation.

In 1953 the U.S. Congress passed the [Submerged Lands Act](#), which affirmed constitutional doctrine giving state sovereignty over all navigable waters within their borders. This sovereign power was devolved to the State of Alaska on equal footing in the [Statehood Act and Compact](#). In an Anchorage Daily News article dated March 3, 2000, Governor Knowles said, “No governor of any state would – or should – ever voluntarily relinquish authority back to the federal government.” He went on to say, “As Alaska’s governor, I believe it is my clear responsibility, even in the face of a difficult political battle, to vigorously defend this important aspect of state sovereignty.” The U.S. Supreme Court has ruled that Congress may not simply “commandeer the legislative processes of the States by directly compelling them to enact and enforce a federal regulatory program.” [New York v United States, 505 US 144, 120 L Ed 2d 120, 112 S Ct 2408 \(1992\)](#).

Additionally, the governor said, “The Alaska State Supreme Court has ruled exactly the opposite of federal court and unanimously said the State of Alaska controls all navigable waters.” Again, the governor also chose to ignore the Alaska Supreme Court. By his actions, Governor Knowles made Alaska a second-class state, ignoring the fact we were admitted to the union on equal footing, when he chose not to appeal the Ninth Circuit Court of Appeals decision to the U.S. Supreme Court.

In the [Alaska Digest Email News](#) of September 3-9, 2001, Alaska Sen. Frank Murkowski supported appealing the Ninth Circuit Court of Appeals decision to the U.S. Supreme Court. Murkowski said, “I don’t believe such an appeal would endanger justified subsistence protections, but it would protect the rights Alaskans thought they had secured at Statehood. An appeal would actually help to end the discord over subsistence by providing finality to the legal arguments. That would help all Alaskans come together and settle this in Alaska, where it should be settled.” Governor Knowles abrogated his “clear responsibility to defend this important aspect of state sovereignty.”

[HB 376](#) further strengthens the State's position with language asserting that the State may not expend funds to adopt or enforce the implementation of federal regulatory programs for control of fish and game in or on the navigable waters or submerged lands in the state. It does not, however, prevent authorities from conducting emergency, life saving, or other appropriate activities.

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