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Bullock
4/5/06

CS FOR HOUSE BILL NO. 328()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES SEATON, OLSON, GATTO AND LEDOUX, Kerttula, Gara

A BILL

FOR AN ACT ENTITLED

1 **"An Act prohibiting mixing zones in freshwater spawning waters."**

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

3 *** Section 1.** AS 46.03 is amended by adding a new section to read:

4 **Sec. 46.03.065. Prohibition of mixing zones in spawning waters.** (a) Except
5 as provided in (b) and (c) of this section, the department may not authorize a mixing
6 zone for lakes, streams, rivers, or other flowing fresh water in an area of

7 (1) anadromous fish spawning; or

8 (2) resident fish redds for

9 (A) Arctic char;

10 (B) Arctic grayling;

11 (C) brook trout;

12 (D) burbot;

13 (E) cutthroat trout;

14 (F) Dolly Varden;

15 (G) lake trout;

- 1 (H) landlocked coho, king, and sockeye salmon;
- 2 (I) northern pike;
- 3 (J) rainbow trout;
- 4 (K) sheefish; or
- 5 (L) whitefish.

6 (b) The prohibition in (a) of this section does not apply to the renewal of a
 7 municipal or village wastewater facility's mixing zone authorization during the useful
 8 life of the wastewater facility for an area where spawning was not ongoing at the time
 9 of the initial authorization and the mixing zone became a spawning area after the date
 10 of the initial authorization.

11 (c) The prohibition in (a) of this section does not apply to a mixing zone for a
 12 suction dredge placer mine or a mechanical placer mine if

13 (1) the turbidity level of the mixing zone has been authorized by the
 14 Department of Environmental Conservation;

15 (2) the mixing zone extends not more than 500 feet downstream of the
 16 point of discharge;

17 (3) the mixing zone is at least 500 feet away from the closest mixing
 18 zone in the same body of water; and

19 (4) the Department of Environmental Conservation with the
 20 concurrence of the Department of Natural Resources, or, in an area designated under
 21 AS 16.20, with the concurrence of the Department of Fish and Game,

22 (A) restricts the discharge to periods when spawning is not
 23 occurring; and

24 (B) finds that the mixing zone will not adversely affect the
 25 present and future capability of the area for spawning, incubation, or rearing of
 26 fish included in (a) of this section.

27 (d) In this section,

28 (1) "area" means the physical location where spawning occurs;

29 (2) "lakes, streams, rivers, or other flowing fresh water" includes lakes,
 30 streams, rivers, or other flowing fresh water that have been altered by remediation or
 31 construction activities; the term does not include an artificially constructed facility for

1 water, wastewater, holding, or channeling, unless the artificial facility is constructed
2 for the purpose of facilitating fish spawning;

3 (3) "mixing zone" means an area in a water body surrounding or
4 downstream of a discharge where the effluent plume is diluted by the receiving water,
5 within which water quality standards specified by the department under AS 46.03.050
6 - 46.03.120 may be exceeded;

7 (4) "village" has the meaning given in AS 46.07.080.

8 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **APPLICABILITY.** AS 46.03.065, enacted in sec. 1 of this Act, does not apply to a
11 suction dredge placer mine or a mechanical placer mine with a permit in effect on the
12 effective date of this Act until the operator applies for a reauthorization of that permit.