



THE STATE
of **ALASKA**
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April 12, 2015

The Honorable Cathy Giessel, Chair
Alaska State Capitol, Room 427
Senate Resources Committee
Juneau, Alaska 99801

Re: *SB101- State Parks Fees & Sales of Merchandise*

Dear Senator Giessel:

On April 10, 2015, the Senate Resources Committee heard testimony on SB101, a bill related to the collection of state park fees and the authority of the Department of Natural Resources (“DNR”) to sell merchandise in support of ongoing park operations. During the hearing, Senator Wielechowski asked whether DNR’s current practice of charging or collecting a fee online for certain activities listed under AS 41.21.026(a)—i.e. the rental of public use cabins and selling special park permits—violates the statute which provides that the “department may charge or collect a fee *in a park unit*.” This letter addresses that question.

The purpose of SB101 was to amend AS 41.21.026 to grant DNR the authority to sell merchandise for informational, educational, or promotional purposes to support ongoing park operations. In the course of reviewing the statute, we recognized that the language “may charge or collect a fee in a park unit” is ambiguous and could be read to limit the agency’s ability to charge or collect a fee outside of a park unit. Given the advancements in technology, such a result would severely limit the agency and lead to an absurd result. We therefore recommend amending AS 41.21.026(a) to delete the language “in a park unit” and remove any ambiguity over how or where the agency may charge or collect a fee.

Although we suggested this amendment to remove any ambiguity, we do not believe that DNR's current practice of charging and collecting fees online violates the statute. Courts generally do not apply the literal interpretation of a statute when it leads to an absurd result. *McLeod v. Parnell*, 286 P.3d 509, 514 (Alaska 2012). Instead, courts will interpret the words of the statute to agree with the intent of the legislature. *Id.* In enacting AS 41.21.026(a), we would contend that the legislature intended to grant DNR the authority to charge or collect a fee for the activities or items listed in subsection (a)—all related to different types of uses of park units—and that the legislature did not intend to require the agency to collect the fee within the actual physical location of the park unit. As recognized during the hearing, many of the state's park units do not have employees regularly stationed within the park. Such a reading of the statute is unreasonable and would lead to a result not envisioned by the legislature.

Sincerely,

CRAIG W. RICHARDS
ATTORNEY GENERAL

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