

HOUSE BILL NO. 399

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/14/22

Referred: Judiciary, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to misconduct involving confidential information; relating to artifacts
2 of the state; and relating to penalties regarding artifacts or historic, prehistoric, or
3 archeological resources of the state."

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

5 * **Section 1.** AS 11.76.113(a) is amended to read:

6 (a) A person commits the crime of misconduct involving confidential
7 information in the first degree if the person

8 (1) violates AS 11.76.115 and obtains the confidential information
9 with the intent to

10 (A) use the confidential information to commit a crime; or

11 (B) obtain a benefit to which the person is not entitled, to injure
12 another person, or to deprive another person of a benefit; [OR]

13 (2) publishes or distributes an audio or video recording of an interview
14 of a child for a criminal or child protection investigation, or records of a medical

examination of a victim or minor conducted for the purpose of the investigation of an offense under AS 11.41.410 - 11.41.440, 11.41.450, or a child protection investigation, including photographs taken during the examination; or

(3) obtains or possesses information that has been classified confidential by law with the intent to

(A) use the information to commit a crime under AS 41.35;

or

(B) provide the information to another person to use to commit a crime under AS 41.35.

* **Sec. 2.** AS 41.35.010 is amended to read:

Sec. 41.35.010. Declaration of policy. It is the policy of the state to preserve and protect the artifacts and historic, prehistoric, and archeological resources of Alaska from loss, desecration, and destruction so that the scientific, historic, and cultural heritage embodied in these artifacts and resources may pass undiminished to future generations. To this end, the legislature finds and declares that the artifacts and historic, prehistoric, and archeological resources of the state are properly the subject of concerted and coordinated efforts exercised on behalf of the general welfare of the public in order that these artifacts and resources may be located, preserved, studied, exhibited, and evaluated.

* **Sec. 3.** AS 41.35.020 is amended to read:

Sec. 41.35.020. Title to artifacts and historic, prehistoric, and archeological resources; local display. (a) The state reserves to itself title to all artifacts and historic, prehistoric, and archeological resources situated on land owned or controlled by the state, including tideland and submerged land, and reserves to itself the exclusive right of field archeology on state-owned or controlled land. However, nothing in AS 41.35.010 - 41.35.240 diminishes the cultural rights and responsibilities of persons of aboriginal descent or infringes on [UPON] their right of possession and use of those artifacts and resources that may be considered of historic, prehistoric, or archeological value.

(b) Although title to artifacts and historic, prehistoric, and archeological resources is in the state, local cultural groups may obtain from the state, or retain, for

study or display, artifacts and other items of these resources from their respective cultures or areas if the commission created in AS 41.35.300 finds that (1) the group has a durable building with weatherproof and fireproof construction and humidity control and other factors necessary to serve as a museum that [WHICH] will assure safe preservation of the items, (2) the item sought to be obtained is not one for which there is an undue risk of damage during transportation, and (3) the item sought to be obtained or retained is not one requiring special treatment or care beyond the ability or means of the group requesting it. A group retaining such an item or obtaining one from the state shall house it in the museum building and shall make every reasonable effort to assure its safe preservation. If the commission finds that a local cultural group is not properly taking care of an item the group shall return it to the department.

* **Sec. 4.** AS 41.35.080 is amended to read:

Sec. 41.35.080. Permits. The commissioner may issue a permit for the investigation, excavation, gathering, or removal from the natural state, of any artifacts or historic, prehistoric, or archeological resources of the state. A permit may be issued only to persons or organizations qualified to make the investigations, excavations, gatherings, or removals and only if the results of these authorized activities will be made available to the general public through institutions and museums interested in disseminating knowledge on the subjects involved. If the artifact or historic, prehistoric, or archeological resource involved is one that [WHICH] is, or is located on a site that [WHICH] is, sacred, holy, or of religious significance to a cultural group, the consent of that cultural group must be obtained before a permit may be issued under this section.

* **Sec. 5.** AS 41.35.200(a) is amended to read:

(a) A person may not appropriate, excavate, remove, injure, or destroy, without a permit from the commissioner, any artifacts or historic, prehistoric, or archeological resources of the state.

* **Sec. 6.** AS 41.35.200(b) is amended to read:

(b) A person may not possess, sell, buy, or transport within the state, or offer to sell, buy, or transport within the state, artifacts or historic, prehistoric, or archeological resources taken or acquired in violation of this section or 16 U.S.C. 433.

1 * **Sec. 7.** AS 41.35.200(d) is amended to read:

2 (d) An **artifact or** historic, prehistoric, or archeological resource that is taken
3 in violation of this section shall be seized by any person designated in AS 41.35.220
4 wherever found and at any time. Objects seized may be disposed of as the
5 commissioner determines by deposit in the proper public depository.

6 * **Sec. 8.** AS 41.35.210 is amended to read:

7 **Sec. 41.35.210. Criminal penalties.** A person who is convicted of violating a
8 provision of AS 41.35.010 - 41.35.240 is guilty of a

9 **(1) class B felony punishable as provided in AS 12.55 and by a**
10 **minimum fine of \$25,000 or three times the value of the artifact or historic,**
11 **prehistoric, or archeological resource, whichever is greater, if the value of the**
12 **artifact or historic, prehistoric, or archeological resource is equal to or greater**
13 **than \$25,000; a court may impose a civil fine exceeding the amount specified**
14 **under AS 12.55.035;**

15 **(2) class A misdemeanor punishable as provided in AS 12.55 if the**
16 **value of the artifact or historic, prehistoric, or archeological resource is less than**
17 **\$25,000.**

18 * **Sec. 9.** AS 41.35.230(2) is amended to read:

19 (2) "historic, prehistoric, and archeological resources" includes
20 deposits, structures, ruins, sites, buildings, graves, [ARTIFACTS,] fossils, or other
21 objects of antiquity **that** [WHICH] provide information pertaining to the historical or
22 prehistorical culture of people in the state as well as to the natural history of the state.

23 * **Sec. 10.** AS 41.35.230 is amended by adding a new paragraph to read:

24 (3) "artifact" means an object made or crafted by humans that has
25 significant historical value and is irreplaceable or part of the state's intrinsic
26 foundational story.

27 * **Sec. 11.** The uncoded law of the State of Alaska is amended by adding a new section to
28 read:

29 **APPLICABILITY.** AS 11.76.113(a), as amended by sec. 1 of this Act, and
30 AS 41.35.210, as amended by sec. 8 of this Act, apply to offenses committed on or after the
31 effective date of this Act.