

HOUSE BILL NO. 97

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/19/99

Referred: Resources, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the management and protection of state land legislatively
2 designated for public use under AS 41.23, and state land designated by the
3 commissioner of the Department of Natural Resources for special management;
4 and providing for an effective date."

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

6 * **Section 1.** AS 12.25.190(c) is amended to read:

7 (c) The person cited for the crime shall give a written promise to appear in
8 court by signing at least one copy of the written citation prepared by the peace officer
9 and the officer shall deliver a copy of the citation to the person. The written promise
10 requirement of this subsection does not apply to

11 (1) motor vehicle and traffic citations for which a bail or fine schedule
12 has been established under AS 28.05.151;[,]

13 (2) fish and game citations for which a bail schedule has been
14 established under AS 16.05.165;[,]

- 1 (3) citations issued under AS 04.21.065;[,]
- 2 (4) citations issued under AS 18.35.341;[,]
- 3 (5) citations issued in state park and recreational facilities under
- 4 AS 41.21.960;[,]
- 5 (6) citations issued under AS 38.05.041 in a special use area;
- 6 (7) citations issued under AS 41.23.980 in a public use area,
- 7 recreation river, recreational mining area, or other area designated under
- 8 AS 41.23; or
- 9 (8) littering citations issued under AS 46.06.080.

10 * **Sec. 2.** AS 38.05 is amended by adding a new section to article 1 to read:

11 **Sec. 38.05.041. Special use areas; violations.** If the commissioner, under

12 regulations adopted under this title, designates state land as a special use area and if

13 public notice and an opportunity for public comment on the designation has been

14 provided, a person who without any culpable mental state violates a provision of this

15 title or of a regulation adopted under this title on state land within that special use area

16 is guilty of a special area violation. Penalties, enforcement authority, and form and

17 issuance of citations for a violation under this section are the same as those provided

18 in AS 41.23.960 - 41.23.980.

19 * **Sec. 3.** AS 41.23 is amended by adding new sections to read:

20 **Article 4. General Provisions.**

21 **Sec. 41.23.950. Special area violations.** A person who without any culpable

22 mental state violates a provision of this chapter or a regulation adopted under this

23 chapter is guilty of a special area violation.

24 **Sec. 41.23.960. Special area violation penalties.** (a) Upon conviction of a

25 special area violation under AS 41.23.950, a person is punishable by a fine of not more

26 than

27 (1) \$1,000 for a first conviction;

28 (2) \$3,000 for a second conviction or for a subsequent conviction not

29 described in (3) of this subsection;

30 (3) \$5,000 for a third or subsequent conviction within a 10-year period.

31 (b) In addition to a penalty under (a) of this section, the court shall order the

1 forfeiture to the state of property or natural resources, including timber, minerals, or
2 materials and the value of the profit or gain obtained by the violator as a result of the
3 commission of the violation.

4 (c) A person charged with a violation under AS 41.23.950 is entitled to a trial
5 by court but not by jury, and is not entitled to representation at public expense.

6 **Sec. 41.23.970. Enforcement authority.** (a) The following persons shall
7 enforce special area violations under AS 41.23.950:

8 (1) an employee of the department authorized by the commissioner;

9 (2) a police officer in the state;

10 (3) to the extent permitted by law, any other person authorized by the
11 commissioner.

12 (b) A police officer designated in (a) of this section may, when enforcing a
13 special area violation,

14 (1) execute a warrant or other process issued by a court of competent
15 jurisdiction;

16 (2) administer or take an oath, affirmation, or affidavit;

17 (3) arrest or issue a citation to a person who commits a special area
18 violation; and

19 (4) seize property or natural resources obtained as a result of the
20 violation.

21 (c) An employee of the department or other person authorized by the
22 commissioner may issue a citation to a person who commits a special area violation.

23 **Sec. 41.23.980. Form and issuance of citation.** (a) When a police officer,
24 authorized department employee, or other authorized person stops or contacts a person
25 concerning a special area violation under AS 41.23.950, the police officer or authorized
26 person may issue a citation to the person, subject to the provisions of AS 12.25.180 -
27 12.25.230. The person receiving the citation may not be required to endorse the
28 citation. If the offense for which the citation is issued is one that may be disposed of
29 without court appearance under (b) of this section, the officer or authorized person
30 who issued the citation shall write on the citation the amount of bail applicable to the
31 cited offense.

1 (b) After consultation with the commissioner, the supreme court shall identify
2 those offenses that are amenable to disposition without court appearance and shall
3 establish by rule or order a schedule of bail amounts, not to exceed fines prescribed
4 by law, for those offenses. In preparing a rule or order under this subsection, the court
5 shall consider the seriousness of the violation.

6 (c) A person cited for an offense for which a bail amount has been established
7 under (b) of this section may, within 15 days after the date of the citation, mail or
8 personally deliver to the clerk of the court having jurisdiction over the place where the
9 offense occurred

10 (1) the amount of bail indicated on the citation for that offense; and

11 (2) a copy of the citation indicating the offender's waiver of
12 appearance, plea of no contest, and direction to forfeit the bail and any property or
13 natural resources seized from the offender.

14 (d) When bail has been forfeited under this section, a judgment of conviction
15 shall be entered. Bail forfeited under this section and the forfeiture of property or
16 natural resources seized from the offender is a complete satisfaction for the offense,
17 and the clerk of the court shall provide the offender with a receipt stating that fact.

18 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).