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Referred: Resources and
Finance

1 IN THE HOUSE

BY FERGUSON, DEGNAN, MOORE
AND SWANSON

2 HOUSE BILL NO. 500

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating a division of fire prevention and
7 control within the Department of Natural Resources."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 41 is amended by adding a new chapter to read:

10 CHAPTER 17. DIVISION OF FIRE PREVENTION

11 AND CONTROL.

12 Sec. 41.17.010. PURPOSE. It is the purpose of this chapter to
13 preserve and protect the forest resources of the state by providing a
14 consolidated and coordinated state forest fire prevention and control
15 system within a separate division of the Department of Natural Resources,
16 thereby transferring the primary responsibility for fire prevention and
17 control from federal to state authority.

18 Sec. 41.17.020. DIVISION WITHIN DEPARTMENT OF NATURAL RESOURCES.
19 There is in the Department of Natural Resources a division of fire
20 prevention and control to perform the functions specified in this
21 chapter, or by regulation promulgated under this chapter.

22 Sec. 41.17.030. DUTIES OF DIVISION. The division of fire
23 prevention and control shall

24 (1) plan for and develop a coordinated system of fire
25 prevention and control on state and private land;

26 (2) assume full responsibility for the implementation of
27 a fire prevention and control system developed under (1) of this
28 section, including, but not limited to, the division of the state
29 into appropriate forest protection areas, and the development of a

1 permit system for the intentional setting of fires or other personal
2 use of land involving a hazard of fire;

3 (3) employ wardens and other personnel necessary to administer
4 forest protection areas designated under this chapter according full
5 priority to qualified Alaska residents;

6 (4) negotiate with the appropriate federal agencies and
7 enter into protection contracts which the commissioner of natural
8 resources considers necessary for the prevention and control of fires
9 on federally-owned lands in the state;

10 (5) coordinate when considered necessary by the commissioner
11 forest fire prevention management and patrol activities with the
12 Dominion of Canada;

13 (6) prepare and print for public distribution an abstract
14 of statutes, regulations or other information relating to the
15 prevention and control of forest fires in the state;

16 (7) furnish, where appropriate, public notices which alert
17 the public of the potential threat of forest fires, and place appro-
18 priate notice in areas of past forest fires, informing the public of
19 the extent of the destruction and its causes;

20 (8) investigate the condition of particular timber areas
21 with the view of prior solution to recurring fire hazard problems.

22 Sec. 41.17.040. REGULATIONS. The commissioner shall promulgate
23 regulations necessary for the administration and implementation of this
24 chapter.

25 Sec. 41.17.050. RIGHT OF ENTRY TO CONTROL AND SUPPRESS FIRES.
26 Upon approval by the commissioner, employees of the division or of any
27 organization authorized to prevent, control or suppress fires or
28 destructive agents, and others assisting in the control or suppression
29 of fires upon request of an officer or employee of the United States

1 or the state may at any time enter upon lands, whether publicly or
2 privately owned, for the purpose of preventing, suppressing or
3 controlling forest fires and destructive agents under this chapter.

4 Sec. 41.17.060. FIRE SEASON. The period from April 1 to October
5 31, inclusive, of each year is designated the fire season. The
6 commissioner may designate other periods as fire season. The
7 commissioner may proclaim an additional period for all or any portion
8 of the state when weather or other conditions require action for the
9 protection of forested lands. The commissioner may also, during the
10 fire season, prohibit by emergency order, or allow only by permit,
11 the setting of fires, smoking, entry or other use on the land, when,
12 in his judgment, the activities would unduly increase the fire danger.
13 Failure to obtain a permit when required, or a violation of the permit
14 is a misdemeanor.

15 Sec. 41.17.070. DISPOSAL OF BURNING MATERIALS. A person who,
16 during the fire season, throws away lighted tobacco, cigar, cigarette,
17 match, firecracker or other burning material on forested land, whether
18 public or private, is guilty of a misdemeanor.

19 Sec. 41.17.080. EQUIPMENT AND NOTICE REQUIRED. A conveyance
20 operated through or above forested lands shall be equipped at all
21 times in each compartment with a suitable receptacle for the disposition
22 or reception of burning material mentioned in sec. 70 of this chapter.
23 An owner or operator of a public conveyance operated through or above
24 forested land shall post and keep displayed at all times a copy of
25 secs. 60 - 80 and 140 of this chapter in a conspicuous place within
26 the smoking compartment of the conveyance. A person owning or
27 operating a sawmill or logging camp or other commercial plant or
28 operation in forested lands shall post and keep displayed at all times
29 a copy of secs. 60 - 80 and 140 of this chapter in a conspicuous place

1 upon the building or ground of the milling, logging or commercial
2 operation. No person may deface or destroy the notices required under
3 this section. A violation of this section is a misdemeanor.

4 Sec. 41.17.090. BUILDING FIRE WITHOUT CLEARING GROUND OR LEAVING
5 UNEXTINGUISHED FIRE AS MISDEMEANOR. A person who builds a fire in or
6 near timber, brush, grass or other inflammable material without first
7 clearing the ground immediately around it free from materials which
8 will carry fire, or who leaves the fire before totally extinguishing
9 it, is guilty of a misdemeanor.

10 Sec. 41.17.100. SETTING FIRE WITHOUT CONSENT OF OWNER OR
11 OCCUPANT OF LAND AS MISDEMEANOR. A person who sets on fire timber,
12 brush, grass or other inflammable material located or growing on lands
13 that are not owned, possessed or controlled by him, without the consent
14 of the owner or lawful occupant of the land, is guilty of a misdemeanor.

15 Sec. 41.17.110. ALLOWING FIRE TO ESCAPE OR FAILURE TO MAKE
16 EFFORT TO EXTINGUISH; MISDEMEANOR. (a) A person who knows of a fire
17 or sets a fire on forested lands owned, possessed, or controlled by
18 him, shall exercise due care to prevent the uncontrolled spread of
19 the fire. A person failing to exercise due care which results in
20 spread of the fire and damage to property of another is guilty of
21 a misdemeanor.

22 (b) A person who neglects to make every effort possible to
23 extinguish a fire he knowingly sets on forested lands or who leaves
24 such a fire unattended is guilty of a misdemeanor.

25 (c) In a criminal action brought under this section, the escape
26 of the fire is presumptive evidence of negligence by the person
27 responsible for starting the fire and unless rebutted is sufficient to
28 sustain a conviction.

29 Sec. 41.17.120. FAILURE TO ASSIST OFFICER OR GOVERNMENT EMPLOYEE

1 IN PREVENTING OR SUPRESSING FIRE AS MISDEMEANOR. If an officer or
2 employee of the United States or the state who is authorized to prevent
3 or suppress fires requests a person to assist in the prevention or
4 suppression of a fire and informs the person of his official status,
5 and the person fails to assist the officer or employee in the perfor-
6 mance of his duties, the person is guilty of a misdemeanor.

7 Sec. 41.17.130. BACKFIRES EXCLUDED. Secs. 10 - 170 of this
8 chapter do not apply to the setting of a backfire under the direction
9 of an officer or employee of the United States or the state who is
10 authorized to prevent or suppress fires.

11 Sec. 41.17.140. PENALTY FOR MISDEMEANOR. A person who is
12 convicted of a misdemeanor under secs. 10 - 170 of this chapter is
13 punishable by a fine of not less than \$25 nor more than \$500, or by
14 imprisonment in jail for not less than 10 days nor more than six
15 months, or by both.

16 Sec. 41.17.150. MALICIOUS OR WANTON SETTING OF FIRES A FELONY.
17 A person who maliciously or wantonly sets on fire timber, brush, grass
18 or other inflammable material located or growing on lands that are not
19 owned, possessed or controlled by him is guilty of a felony and upon
20 conviction is punishable by a fine of not less than \$100 or not more
21 than \$1,000, or by imprisonment for not less than one year nor more
22 than 10 years, or by both.

23 Sec. 41.17.160. DOUBLE DAMAGES ALLOWED IN CIVIL ACTIONS. In
24 addition to the criminal punishment provided for by secs. 10 - 170 of
25 this chapter, the United States, the state, a local governing body, or
26 any person may recover in a civil action double the amount of damages
27 sustained as a consequence of a violation of secs. 10 - 170 of this
28 chapter. In a civil action brought under secs. 10 - 170 of this
29 chapter or any other law relating to the subject matter of secs. 10 - 170

1 of this chapter, the escape of a fire is presumptive evidence of
2 negligence by the person responsible for starting the fire and unless
3 rebutted is sufficient to sustain the recovery.

4 Sec. 41.17.170. ENFORCEMENT AUTHORITY. (a) The following
5 persons are peace officers of the state and they shall enforce the
6 provisions of this chapter and the regulations promulgated under this
7 chapter:

8 (1) solely for the purpose of enforcing this chapter, an
9 employee of the Department of Natural Resources, or other person,
10 authorized by the commissioner;

11 (2) a police officer in the state.

12 (b) A person designated in (a) of this section may, when enforcing
13 the provisions of this chapter or a regulation made under this chapter,

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

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

18 (3) arrest a person who violates a provision of this chapter
19 or a regulation made under this chapter.

20 Sec. 41.17.180. DEFINITIONS. In secs. 10 - 170 of this chapter

21 (1) "commissioner" means the commissioner of natural
22 resources;

23 (2) "damages" includes costs incurred in suppressing,
24 controlling or extinguishing a fire;

25 (3) "division" means the division of fire prevention and
26 control with the Department of Natural Resources;

27 (4) "forest fire" includes the uncontrolled burning of grass,
28 brush, timber and other natural vegetative material;

29 (5) "forested lands" includes all lands on which grass, brush,

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timber and other natural vegetative material grows.

* Sec. 2. AS 41.15.010 - 41.15.170 and AS 41.15.700 are repealed.