

Introduced: 3/26/73
Referred: Resources and
Judiciary

1 IN THE HOUSE

BY BEIRNE

2 HOUSE BILL NO. 387

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Historic Preservation
7 Act."

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

9 * Section 1. AS 41.35.070 is amended to read:

10 Sec. 41.35.070. PRESERVATION OF HISTORIC, PREHISTORIC AND
11 ARCHEOLOGICAL RESOURCES THREATENED BY PUBLIC CONSTRUCTION. (a) The
12 department [STATE ARCHEOLOGIST] shall locate, identify and preserve in
13 suitable records information regarding historic, prehistoric and
14 archeological sites, locations and remains. The information shall be
15 submitted to the heads of the executive departments of the state.

16 (b) Before public construction or public improvement of any nature
17 is undertaken by the state, or by a governmental agency of the state or
18 by a private person under contract with or licensed by the state or
19 governmental agency of the state, the department [STATE ARCHEOLOGIST]
20 may survey the affected area to determine if the area contains historic,
21 prehistoric or archeological values.

22 (c) If the department [STATE ARCHEOLOGIST] determines that historic,
23 prehistoric or archeological sites, locations or remains will be ad-
24 versely affected by the public construction or improvement, the proposed
25 public construction or improvement may not be commenced until the de-
26 partment [IN COOPERATION WITH THE STATE ARCHEOLOGIST] has performed the
27 necessary investigation, recording and salvage of the site, location or
28 remains. All investigation, recording and salvage work shall be per-
29 formed as expeditiously as possible so that no state construction

1 project will be unduly impaired, impeded or delayed.

2 (d) If in the course of performing public construction or improve-
3 ments, historic, prehistoric or archeological sites, locations, remains
4 or objects are discovered, the department [STATE ARCHEOLOGIST] shall be
5 notified and its [HIS] concurrence shall be requested in continuing the
6 construction or improvement. Upon receipt of this notice, the
7 department [STATE ARCHEOLOGIST] shall survey the area to determine
8 whether the area contains historic, prehistoric or archeological data
9 which should be preserved in the public interest. The survey shall
10 be conducted as expeditiously as possible. If, as a result of the
11 survey, it is determined that (1) this data exists in the area, (2) the
12 data has exceptional historic, prehistoric or archeological significance,
13 and should be collected and preserved in the public interest, and (3)
14 it is feasible to collect and preserve the data, the department [IN
15 COOPERATION WITH THE STATE ARCHEOLOGIST] shall perform the necessary
16 work to collect and preserve the data. This work shall be performed
17 as expeditiously as possible.

18 (e) If the concurrence of the department [STATE ARCHEOLOGIST],
19 required under (b) and (c) of this section, is not obtained after 90 days
20 from the filing of a request for its [HIS] concurrence to proceed with the
21 project, the agency or person performing the construction or improvement
22 may apply to the governor for permission to proceed without that con-
23 concurrence and the governor may take the action he considers best in
24 overruling or sustaining the department [STATE ARCHEOLOGIST].

25 (f) The costs of investigation, recording and salvage of the site
26 shall be reimbursed by the agency sponsoring the construction project.

27 (g) Notwithstanding (a) - (f) of this section, all actions
28 [OF THE ARCHEOLOGIST] to stop any project must first be approved in
29 writing by the commissioner of natural resources.

1 * Sec. 2. AS 41.35.080 is amended to read:

2 Sec. 41.35.080. PERMITS. The commissioner [, WITH THE ADVICE AND
3 CONCURRENCE OF THE STATE ARCHEOLOGIST,] may issue a permit for the
4 investigation, excavation, gathering or removal from the natural state,
5 of any historic, prehistoric or archeological resources of the state.
6 A permit may be issued only to persons or organizations qualified to
7 make the investigations, excavations, gatherings or removals and only if
8 the results of these authorized activities will be made available to the
9 general public through institutions and museums interested in dissemi-
10 nating knowledge on the subjects involved. If the historic, prehistoric
11 or archeological resource involved is one which is, or is located on a
12 site which is, sacred, holy or of religious significance to a cultural
13 group, the consent of that cultural group must be obtained before a
14 permit may be issued under this section.

15 * Sec. 3. AS 41.35.090 is amended to read:

16 Sec. 41.35.090. NOTICE REQUIRED OF PRIVATE PERSONS. Before any
17 construction, alteration or improvement of any nature is undertaken on
18 a privately owned, officially designated state monument or historic site
19 by any person, he shall give the department [AND THE STATE ARCHEOLOGIST]
20 three months notice of intention to construct on, alter or improve it.
21 Before the expiration of the three-month notification period, the
22 department shall either begin eminent domain proceedings under sec.
23 60(b) of this chapter or undertake or permit the recording and salvaging
24 of any historic, prehistoric or archeological information considered
25 necessary.

26 * Sec. 4. AS 41.35.100 is amended to read:

27 Sec. 41.35.100. EXCAVATION AND REMOVAL OF HISTORIC, PREHISTORIC
28 OR ARCHEOLOGICAL REMAINS ON PRIVATE LAND. Before any historic, pre-
29 historic or archeological remains are excavated or removed from private

1 land by the department [OR THE STATE ARCHEOLOGIST], the written approval
2 of the owner shall first be secured. When the value of the private land
3 is diminished by the excavation or removal, the owner of the land shall
4 be compensated for the loss at a monetary sum mutually agreed on by the
5 department and the owner or at a monetary sum set by the court.

6 * Sec. 5. AS 41.35.120(1) is amended to read:

7 (1) the director of the Alaska State Museum [STATE ARCHEOLO-
8 GIST];

9 * Sec. 6. AS 41.35.120(3) is amended to read:

10 (3) three persons with professionally relevant backgrounds
11 appointed from each of the following fields: history, [ANTHROPOLOGY,
12 PALEONTOLOGY,] architecture [, GEOLOGY,] and archeology [, AND NATURAL
13 HISTORY]; and

14 * Sec. 7. AS 41.35.180(2) is amended to read:

15 (2) cooperate with the Department of Natural Resources [AND
16 THE STATE ARCHEOLOGIST] in formulating and administering a statewide
17 historic sites survey under the National Historic Preservation Act of
18 1966, Public Law 89-665 (80 Stat. 915);

19 * Sec. 8. AS 41.35.200(b) is amended to read:

20 (b) It is unlawful for a person to [KNOWINGLY] possess, sell,
21 buy or transport within the state, or offer to sell, buy or transport
22 within the state, historic, prehistoric or archeological resources
23 taken or acquired in violation of this section or 16 U.S.C. 433.

24 * Sec. 9. AS 44.37 is amended by adding a new section to read:

25 Sec. 44.37.040. DUTIES OF DEPARTMENT WITH RESPECT TO HISTORIC
26 PRESERVATION AND ARCHEOLOGY. The Department of Natural Resources shall:

27 (1) sponsor, engage in and direct fundamental research into
28 the archeology of the state and encourage and coordinate archeological
29 research and investigation undertaken in the state;

1 (2) cooperate with the Historic Sites Advisory Committee
2 in performing their functions under AS 41.35;

3 (3) ensure that historic, prehistoric and archeological
4 resources are properly reported by persons or agencies engaged in public
5 construction work and protect sites and objects of significance dis-
6 covered at state sites or discovered during the course of public con-
7 struction and encourage the protection of sites and objects discovered
8 during the course of any other construction work;

9 (4) investigate reported historic, prehistoric or archeo-
10 logical resources and appraise them for any future excavation, preserva-
11 tion and interpretation;

12 (5) serve as a central clearinghouse for information on all
13 historic, prehistoric and archeological resource excavation in the state.

14 * Sec. 10. AS 44.37.190 is repealed.
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