

Original sponsor: Beirne

Offered: 4/24/74  
Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR 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 public resources."

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

8 \* Section 1. AS 41.35.070 is amended to read:

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

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

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

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

17 (e) If the concurrence of the department [STATE ARCHEOLOGIST],  
18 required under (b) and (c) of this section, is not obtained after 90  
19 days from the filing of a request for its [HIS] concurrence to proceed  
20 with the project, the agency or person performing the construction  
21 or improvement may apply to the governor for permission to proceed  
22 without that concurrence and the governor may take the action he con-  
23 sidered best in overruling or sustaining the department [STATE  
24 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 [OF  
28 THE ARCHEOLOGIST] to stop any project must first be approved in writing  
29 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  
8 if the results of these authorized activities will be made available  
9 to the general public through institutions and museums interested in  
10 disseminating knowledge on the subjects involved. If the historic,  
11 prehistoric or archeological resource involved is one which is, or is  
12 located on a site which is, sacred, holy or of religious significance  
13 to a cultural group, the consent of that cultural group must be  
14 obtained before a 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  
18 on a privately owned, officially designated state monument or historic  
19 site by any person, he shall give the department [AND THE STATE  
20 ARCHEOLOGIST] three months notice of intention to construct on, alter  
21 or improve it. Before the expiration of the three-month notification  
22 period, the department shall either begin eminent domain proceedings  
23 under sec. 60(b) of this chapter or undertake or permit the recording  
24 and salvaging of any historic, prehistoric or archeological information  
25 considered 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  
2 approval of the owner shall first be secured. When the value of the  
3 private land is diminished by the excavation or removal, the owner of  
4 the land shall be compensated for the loss at a monetary sum mutually  
5 agreed on by the department and the owner or at a monetary sum set  
6 by the court.

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

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

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

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

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

16 (2) cooperate with the Department of Natural Resources [AND  
17 THE STATE ARCHEOLOGIST] in formulating and administering a statewide  
18 historic sites survey under the National Historic Preservation Act of  
19 1966, Public Law 89-665 (80 Stat. 915);

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

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

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

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

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

1 research and investigation undertaken in the state;

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

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

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

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

16 \* Sec.10. AS 41.20 is amended by adding new sections to read:

17 ARTICLE 10. HATCHER PASS RECREATION AREA.

18 Sec. 41.20.360. DECLARATION OF PURPOSE. The purpose of secs. 360  
19 375 of this chapter is to dedicate lands and waters within the Hatcher  
20 Pass Recreation Area to recreational uses while at the same time  
21 recognizing the value to the people of the state of the existing  
22 mineral and agricultural industry in the area. It is the intent of  
23 the legislature that mining be undertaken on state lands in the Hatcher  
24 Pass Recreation Area only under lease and that mining and agricultural  
25 activity outside the mineral zone designated in sec. 370(b) of this  
26 chapter be permitted if it is done in a manner compatible with recreation  
27 use.

28 Sec. 41.20.365. DESIGNATED LAND AND WATER RESTRICTED TO USE. Those  
29 lands and waters lying inside the following described boundary are

1 designated as the Hatcher Pass Recreation Area subject to the uses  
2 specified in sec. 370 of this chapter: Beginning at the NW corner of  
3 the SW 1/4 of the SW 1/4 of Section 31, T20N, R2W, S.M., thence north  
4 along the township line a distance of one and three-fourth miles, more  
5 or less, to the SW corner of Section 19, T20N, R2W, S.M.; thence east  
6 along the south line of said section a distance of one-half mile, more  
7 or less; thence north along the centerline of said Section 19, a  
8 distance of one-quarter mile, more or less, to the NW corner of the  
9 SW 1/4 of the SE 1/4 of said Section 19; thence east along the S 1/16  
10 line a distance of one-quarter mile, more or less, to the NE corner of  
11 said SW 1/4; thence north along the east 1/16 line a distance of one-  
12 half mile, more or less, to the SW corner of the NE 1/4 of the NE 1/4  
13 of Section 19, T20N, R2W, S.M.; thence north northeasterly along the  
14 existing ridge line a distance of four and one-quarter miles, more or  
15 less, to the SW corner of Section 28, T21N, R2W, S.M.; thence north  
16 northwesterly along said ridge line a distance of one and one-quarter  
17 miles, more or less, to the south 1/4 corner of Section 20, T21N, R2W,  
18 S.M.; thence northeasterly along said ridge line a distance of two and  
19 one-quarter miles, more or less, to the NE corner of the NW 1/4 of the  
20 SE 1/4 of Section 15, T21N, R2W, S.M.; thence east southeasterly along  
21 said ridge line a distance of ten miles, more or less, to the NW  
22 corner of the SW 1/4 of the SW 1/4 of Section 29, T21N, R1E, S.M.;  
23 thence northeasterly along the ridge line a distance of four and one-  
24 quarter miles, more or less, to the north 1/4 corner of Section 23,  
25 T21N, R1E, S.M.; thence east southeasterly across the Bartholf Creek  
26 Valley a distance of one and one-half miles, more or less, to the NE  
27 corner of the SE 1/4 of the NE 1/4 of Section 24, T21N, R1E, S.M.;  
28 thence east southeasterly along a ridge line a distance of four miles,  
29 more or less, to a point known as "Montana Peak" located in the NE 1/4

1 of Section 27, T21N, R2E, S.M.; thence northeasterly along said ridge  
2 line a distance of two and one-quarter miles, more or less, to the NE  
3 corner of the SE 1/4 of the NW 1/4 of Section 24, T21N, R2E, S.M.;  
4 thence southeasterly along said ridge line a distance of two and one-  
5 half miles, more or less, to the SE corner of Section 29, T21N, R3E,  
6 S.M.; thence south southwesterly along a ridge line a distance of six  
7 and one-half miles, more or less, to a point known as "Eska Mountain",  
8 said point being located near the center of Section 32, T20N, R3E, S.M.;  
9 thence southwesterly along a descending ridge line a distance of four  
10 and one-half miles, more or less, to the E 1/4 corner of Section 14, T19N,  
11 R2E, S.M., said point being the west bank of "Moose Creek"; thence  
12 southwesterly along the west bank of "Moose Creek" a distance of three-  
13 fourths mile, more or less, to the S 1/4 corner of said Section 14,  
14 T19N, R2E, S.M.; thence west along the south section line a distance  
15 of two and one-half miles, more or less, to the NE corner of Section 20,  
16 T19N, R2E, S.M.; thence south along the east line of said section a  
17 distance of one mile, more or less, to the SE corner of said section;  
18 thence west along the south section line a distance of four miles, more  
19 or less, to the NE corner of Section 27, T19N, R1E, S.M.; thence south  
20 along the east line of said section a distance of one mile, more or less,  
21 to the SE corner of said section; thence west along the south section  
22 line a distance of three miles, more or less, to the SE corner of Sec-  
23 tion 30, T19N, R1E, S.M.; thence south along the east line of Section 31,  
24 T19N, R1E, S.M. a distance of one mile, more or less, to the SE corner  
25 of said Section 31; thence west along the south section line a distance  
26 of thirteen miles, more or less, to the SW corner of Section 31, T19N,  
27 R2W, S.M.; thence north along the township line a distance of five miles,  
28 more or less, to the NW corner of Section 7, T19N, R2W, S.M.; thence  
29 east along the north line of said section a distance of one-quarter mile,

1 more or less; thence north along the west 1/16 line of Section 6, T19N,  
2 R2W, S.M. a distance of one-quarter mile, more or less; thence east  
3 along the south 1/16 line of said section a distance of one-quarter  
4 mile, more or less; thence north along the centerline of said Section 6  
5 a distance of one mile, more or less, to the south 1/16 line of  
6 Section 31, T20N, R2W, S.M.; thence east along the south 1/16 line a  
7 distance of one-fourth mile, more or less, to the east 1/16 line of  
8 said section; thence north along said east 1/16 line a distance of  
9 one-half mile, more or less, to the north 1/16 line of said section;  
10 thence west along said 1/16 line a distance of one-half mile, more or  
11 less, to the west 1/16 line of said section, more or less; thence  
12 south along the west 1/16 line of said section a distance of one-half  
13 mile, more or less, to the south 1/16 line of said section; thence  
14 west along said 1/16 line a distance of one-fourth mile, more or less,  
15 to the point of beginning.

16 Sec. 41.20.370. USES PERMITTED. (a) The land classification map  
17 for the Hatcher Pass Recreation Area on file with the Department of  
18 Natural Resources and numbered HP-1 is adopted as the official classi-  
19 fication map for the Hatcher Pass Recreation Area. Changes to this map  
20 are effective only upon approval by the commissioner of natural resources.

21 (b) Within the area designated as mineral zone, mining is recog-  
22 nized as the primary use of the lands, waters, and roads, and any  
23 recreational development undertaken may not interfere with mining  
24 activities. When, in his judgment, mining activity reaches a point  
25 where public entry into the area would be hazardous, the commissioner  
26 may restrict public entry into the area, including restricting travel  
27 on portions of the state highway system located in the area.

28 (c) Within the remainder of the area, public recreation and scenic  
29 preservation are recognized as the highest and best surface uses and

1 any other development may be undertaken only in a manner that is com-  
2 patible with these values and upon approval by the commissioner of  
3 natural resources.

4 (d) After the effective date of this Act, private land and existing  
5 claims and leases within the area specified under sec. 365 of this  
6 chapter are restricted to the type of uses to which they were put before  
7 the effective date of this Act, including but not limited to previous  
8 mining and agricultural activity or to public or private recreational  
9 uses which are approved by the commissioner of natural resources.

10 (e) Rights to mineral deposits in the area specified in sec. 365  
11 of this chapter may only be obtained by a mineral lease under AS 38.05.  
12 205.

13 Sec. 41.20.375. PURCHASE AUTHORIZED. The commissioner of natural  
14 resources may acquire, by purchase in the name of the state, title to  
15 or interest in real property lying within the boundaries of the Hatcher  
16 Pass Recreation Area. The state may not acquire by eminent domain  
17 privately owned land for inclusion in the Hatcher Pass Recreation Area.

18 \* Sec. 11. AS 44.37.190 is repealed.  
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