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Referred: Resources and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 CS SS HOUSE BILL NO. 626

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the establishment of marine
7 sanctuaries; and providing for an effective date."

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

9 * Section 1. AS 38.05.295 is amended to read:

10 ARTICLE 10. PARKS, MARINE SANCTUARIES AND
11 RECREATION AREAS.

12 Sec. 38.05.295. PARKS, MARINE SANCTUARIES AND RECREATION AREAS.

13 (a) The commissioner shall establish a policy and adopt [PRESCRIBE
14 RULES AND] regulations by which parks, marine sanctuaries, and recrea-
15 tion areas, including public scenic overlooks and cultural sites,
16 shall be developed and managed in a manner that will best serve the
17 interests of the people of the state. The commissioner may classify
18 public lands, water, and land and water areas as parks, marine sanctu-
19 aries, scenic overlooks, cultural sites and recreation areas as long
20 as the general intent of this chapter is maintained.

21 (b) Annually, the commissioner shall call for nominations from
22 the public for the establishment of additions to the state system of
23 parks, marine sanctuaries and recreational facilities. Any person,
24 including state or federal agencies, or local governments may nominate
25 state land, water, or land and water areas for additions to the system.
26 The commissioner shall adopt regulations which are necessary to carry
27 out this section, including provision for public hearings.

28 * Sec. 2. AS 41.20.010 is amended to read:

29 CHAPTER 20. PARKS, MARINE SANCTUARIES, AND

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1 RECREATIONAL FACILITIES.

2 ARTICLE 1. ACQUISITION, DEVELOPMENT AND MAINTENANCE OF STATE
3 PARKS, MARINE SANCTUARIES, AND RECREATIONAL AREAS GENERALLY.

4 Sec. 41.20.010. DECLARATION OF PURPOSE. (a) It is the purpose
5 of secs. 10--47 [10--40] of this chapter to foster the growth and
6 development of a system of parks and recreational facilities and
7 opportunities in the state, for the general health, welfare, education,
8 and enjoyment of its citizens and for the attraction of visitors to
9 the state.

10 (b) It is also the purpose of this chapter to foster the growth
11 and development of marine sanctuaries, water, or land and water areas
12 to be set aside as part of the state parks and recreation system,
13 under the general management responsibility of the Department of
14 Natural Resources, with responsibility for the fish and wildlife
15 resources vested in the Alaska Department of Fish and Game. It is the
16 intent to protect certain areas in the coastal zone for their excep-
17 tionally high natural, recreational, habitat, or scientific values,
18 for the benefit of the people of the state.

19 * Sec. 3. AS 41.20.020 is amended to read:

20 Sec. 41.20.020. DUTIES OF DEPARTMENT OF NATURAL RESOURCES. The
21 Department of Natural Resources shall

22 (1) develop a continuing plan for the conservation and
23 maximum use in the public interest of the scenic, historic, archaeolo-
24 gic, scientific, biological, and recreational resources of the state;

25 (2) plan for and develop a system of state parks, marine
26 sanctuaries, and recreational facilities, to be established as the
27 legislature authorizes and directs;

28 (3) acquire by gift, purchase, or transfer from state or
29 federal agencies, or from individuals, corporations, partnerships or

1 associations, land, water, or land and water areas necessary, suitable
2 and proper for roadside, picnic, recreational, marine sanctuary, or
3 park purposes;

4 (4) control, develop and maintain as appropriate state
5 parks, marine sanctuaries, and recreational areas;

6 (5) provide for the acquisition, care, control, supervision,
7 improvement, development, extension and maintenance [OF PUBLIC RECREA-
8 TIONAL LANDS], and make necessary arrangements, contracts or commit-
9 ments for the improvement and development of lands, water, or land and
10 water areas acquired under secs. 10--47 [10--40] of this chapter;

11 (6) adopt [ESTABLISH], in accordance with the Administrative
12 Procedure Act, [RULES AND] regulations governing nominations for
13 additions to the system of state parks, marine sanctuaries, and recrea-
14 tional facilities and governing the use and designating incompatible
15 uses within the boundaries of state park, marine sanctuary, and recrea-
16 tional areas to protect the property and to preserve the peace;

17 (7) cooperate with the United States and its agencies and
18 local subdivisions of the state to secure the effective supervision,
19 improvement, development, extension, and maintenance of state parks,
20 state monuments, state historical areas, state marine sanctuaries,
21 and state recreational areas, and secure agreements or contracts for
22 the purpose of secs. 10--47 [10--40] of this chapter;

23 (8) encourage the organization of state public park, marine
24 sanctuary, and recreational activities in the local political sub-
25 divisions of the state;

26 (9) provide for consulting service designed to develop
27 local park, marine sanctuary, and recreation facilities and programs;

28 (10) provide clearing-house services for other state agencies
29 concerned with park, marine sanctuary, and recreation matters; and

1 (11) perform other duties as are prescribed by executive
2 order or by law.

3 * Sec. 4. AS 41.20.040 is amended to read:

4 Sec. 41.20.040. DIVISION WITHIN DEPARTMENT OF NATURAL RESOURCES.
5 The commissioner of natural resources may establish within the Depart-
6 ment of Natural Resources a separate division to perform the functions
7 relative to parks, marine sanctuaries, and recreational facilities
8 specified in secs. 10--47 [10--40] of this chapter and related or
9 additional functions as are otherwise assigned to the department by
10 law.

11 * Sec. 5. AS 41.20.045 is amended to read:

12 Sec. 41.20.045. ENFORCEMENT AUTHORITY. (a) For offenses com-
13 mitted within parks, marine sanctuaries, and recreational facilities
14 subject to the department's supervision, the following persons are
15 peace officers of the state and they shall enforce the provisions of
16 this chapter and the regulations adopted [PROMULGATED] under this
17 chapter:

18 (1) an employee of the department authorized by the com-
19 missioner;

20 (2) a police officer in the state;

21 (3) any other person authorized by the commissioner.

22 (b) Each person designated in (a) of this section may, when
23 enforcing the provisions of this chapter or a regulation adopted
24 [MADE] under this chapter,

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

27 (2) administer or take an oath, affirmation or affidavit;
28 and

29 (3) arrest a person who violates a provision of this chapter

1 or a regulation adopted [MADE] under this chapter.

2 * Sec. 6. AS 41.20 is amended by adding new sections to read:

3 ARTICLE 12. STATE MARINE SANCTUARIES.

4 Sec. 41.20.410. DECLARATION OF PURPOSE. The purpose of secs.
5 410--430 of this chapter is to restrict land and water areas described
6 in sec. 415 of this chapter to use as a state marine sanctuary, con-
7 sistent with AS 38.05.300, and art. VIII, sec. 7, of the Alaska
8 Constitution.

9 Sec. 41.20.415. STATE LAND AND WATER AREAS DESIGNATED AS STATE
10 MARINE SANCTUARY. Land and water areas owned by the state on the
11 effective date of this Act, and all those acquired in the future by
12 the state, lying within the boundaries described in this section, are
13 designated as the Kachemak Bay State Marine Sanctuary. The sanctuary
14 is established for the protection and enhancement of the broad range
15 of natural, renewable resources, extraordinary abundance and diversity
16 of marine life and variety of human uses, associated with the area.
17 Primary among the uses which require a high degree of protection are
18 fisheries, recreation and scientific research. The land and water
19 areas designated as the Kachemak Bay State Marine Sanctuary and
20 reserved from all uses incompatible with their primary function as a
21 state marine sanctuary are those seaward of the mean higher high water
22 line, beginning at Anchor Point; then around the perimeter of Kachemak
23 Bay, to Point Pogibshi; then west to the three mile limit of state
24 land and waters; then north to a point three miles west of Anchor
25 Point; then east to the mean higher high water line of Anchor Point,
26 the point of beginning; including within the boundaries, all islands,
27 sea bird colonies, marine mammal haulouts, and rookeries.

28 Sec. 41.20.420. DESIGNATION OF MANAGEMENT RESPONSIBILITY.
29 General management of the state land and water areas described in sec.

1 415 of this chapter is assigned to the Department of Natural Resources,
2 and those areas shall be protected from exploitation, development, and
3 any activity that would seriously alter or otherwise endanger the
4 ecology or the appearance of the areas, the seabed, or the subsoil of
5 the areas. The Department of Fish and Game is responsible for manage-
6 ment of the fish and wildlife resources of the areas.

7 Sec. 41.20.425. INCOMPATIBLE USE PROHIBITED. (a) The legislature
8 finds that all activities associated with the exploration or develop-
9 ment of oil and gas are incompatible activities and are prohibited in
10 the sanctuary. All other uses are compatible unless determined to be
11 incompatible and are prohibited or restricted under (b) of this
12 section.

13 (b) The commissioner of natural resources, in consultation with,
14 and with the consent of, the commissioner of fish and game, may desig-
15 nate by regulations adopted in accordance with the Administrative
16 Procedure Act (AS 44.62), uses which could seriously alter or otherwise
17 endanger the ecology or appearance of the areas, the seabed, or the
18 subsoil of the areas, as incompatible within the boundaries of the
19 sanctuary. Those incompatible uses are prohibited or restricted, as
20 provided by regulation.

21 Sec. 41.20.430. PURCHASE AUTHORIZED. For Kachemak Bay State
22 Marine Sanctuary, the commissioner of natural resources may acquire,
23 by purchase or through exercise of the power of eminent domain, in the
24 name of the state, title to or interests in real property, including
25 leasehold interests, lying within the boundaries of the sanctuary
26 which are incompatible with the purposes for which this sanctuary was
27 created.

28 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
29 10.070(c).