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Referred: Resources and  
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 SPONSOR SUBSTITUTE FOR 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

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 state parks, marine  
5 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 lying  
11 within the boundaries described in this section, are designated as the  
12 Kachemak Bay State Marine Sanctuary. The sanctuary is established for  
13 the protection and enhancement of the extraordinary abundance and  
14 diversity of marine life and variety of human uses associated with the  
15 area. The land and water areas designated as the Kachemak Bay State  
16 Marine Sanctuary are those state-owned lands and waters seaward of the  
17 mean higher high water line, beginning at Anchor Point; then around  
18 the perimeter of Kachemak Bay, to Point Pogibshi; then west to the  
19 three mile limit of state land and waters; then north to a point three  
20 miles west of Anchor Point; then east to the mean higher high water  
21 line of Anchor Point, the point of beginning.

22 Sec. 41.20.420. DESIGNATION OF MANAGEMENT RESPONSIBILITY. (a)  
23 Except as provided in (d) of this section, management of the state  
24 land and water areas described in sec. 415 of this chapter is assigned  
25 to the Department of Natural Resources, and those areas shall be  
26 protected from activities that would significantly damage the environ-  
27 ment of the areas.

28 (b) The following particular uses of the area are legislatively  
29 determined not to significantly affect the environment of the areas:

1 (1) activities related to commercial, sport or subsistence  
2 fishing, including the operation of all authorized fishing gear, and  
3 the building, operation and maintenance of seafood processing plants;

4 (2) the taking of marine and beach plants for subsistence  
5 and artistic purposes;

6 (3) the gathering of driftwood and coal;

7 (4) the construction, ownership and maintenance of homes  
8 and vacation cabins;

9 (5) the construction and operation of docks, lodges,  
10 fishing piers and other tourist facilities;

11 (6) the discharge of treated fish waste;

12 (7) the development of deep water ports within the area.

13 (c) Any regulations adopted by the commissioner of natural  
14 resources regarding management of the sanctuary may only be adopted  
15 after public hearings held in accordance with the Administrative  
16 Procedure Act. At least one such public hearing must be held within  
17 10 miles of the borders of the sanctuary.

18 (d) The Department of Fish and Game is responsible for manage-  
19 ment of the fish and wildlife resources of the areas.

20 Sec. 41.20.425. OIL AND GAS DEVELOPMENT. The legislature finds  
21 that the value of the renewable resources and the recreational and  
22 environmental qualities of the Kachemak Bay Marine Sanctuary requires  
23 complete protection from the risks and activities associated with the  
24 exploration for and the development and production of oil and gas in the  
25 sanctuary. No oil or gas leases may be issued by the Department  
26 of Natural Resources or any other state agency for the exploration  
27 for or the development or production of oil and gas within the  
28 sanctuary. The commissioner of natural resources may acquire, by  
29 purchase or through the exercise of the power of eminent domain,

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in the name of the state, title to or interests in oil or gas leases which were issued prior to the effective date of this Act, the purchase of which is necessary to prohibit oil and gas exploration, development or production in the sanctuary. In lieu of payment for a purchased leasehold interest, the commissioner may authorize a credit of the purchase price plus interest at the rate prescribed by AS 09.30.070 to be granted the seller to be applied against lease rental payments, permit fees, or oil and gas taxes which may be owed or are owing on other leases or property on state land held by the seller for oil and gas development.

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