

Introduced: 1/19/86
Referred: Health, Education &
Social Services and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 526

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to preservation of important arti-
7 facts of Alaskan culture; and providing for an effec-
8 tive date."

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

10 * Section 1. AS 09.25.010 is amended by adding a new subsection to
11 read:

12 (c) Notwithstanding other provisions in this section, the exis-
13 tence of a trust may be recognized and enforced by a court in the
14 absence of a writing, upon a showing, by a preponderance of the evi-
15 dence, that a trust or caretaking arrangement has been established by
16 Alaska Native custom and tradition for protection and conservation of
17 ceremonial, cultural, or religious property on behalf of all members
18 of a clan, house, band, or other traditional group of Alaska Natives
19 as owners in common.

20 * Sec. 2. AS 34.40.070 is amended by adding a new subsection to read:

21 (b) Notwithstanding (a) of this section, a court may recognize
22 and enforce a valid, unwritten grant or assignment of a trust or
23 caretaking arrangement for protection and conservation of ceremonial,
24 cultural, or religious property on behalf of all members of a clan,
25 house, band, or other traditional group of Alaska Natives, as owners
26 in common, upon a showing, by a preponderance of the evidence, of a
27 grant or assignment according to established Alaska Native custom and
28 tradition.

29 * Sec. 3. AS 41.35.010 is amended by adding a new subsection to read:

1 (b) The legislature finds that many of Alaska's historical and
2 cultural artifacts, including ceremonial and religious objects impor-
3 tant to Alaska's Native peoples, have been removed and sold, often by
4 persons without a rightful claim to them. All Alaskans share a deep
5 loss because of the removal of important parts of our cultural and
6 historical heritage. It has become necessary for the state to take a
7 strong role in preventing further loss of the Alaskan heritage and to
8 stop unfair and unethical methods of collecting artifacts.

9 * Sec. 4. AS 41.35.020 is amended by adding a new subsection to read:

10 (c) The director of the Alaska State Museum may arrange to
11 preserve, protect, and display objects of historic, prehistoric,
12 archeological, or cultural value owned by private persons. For this
13 purpose the museum may enter into agreements for loan and display of
14 objects, including reimbursement of the owner's costs associated with
15 the loan. A loan agreement may contain a provision guaranteeing the
16 owner access to the object loaned and for periodic return of the
17 object to the owner for private use, including ceremonial use.

18 * Sec. 5. AS 41.35.060 is amended by adding a new subsection to read:

19 (c) If the director of the Alaska State Museum finds that an
20 Alaskan heritage artifact for which notice of sale is required under
21 AS 41.35.095 is in danger of being sold or used so that its value to
22 the people of Alaska will be destroyed or seriously impaired, the
23 director may purchase the artifact or acquire it by eminent domain.

24 * Sec. 6. AS 41.35 is amended by adding a new section to read:

25 Sec. 41.35.095. SALE OF ALASKAN HERITAGE ARTIFACTS. (a) A
26 person who intends to sell an Alaskan heritage artifact shall provide
27 the following information to the director of the Alaska State Museum
28 at least 30 days before the sale:

29 (1) a description of the artifact, including a photograph;

1 (2) as detailed a history of the artifact as is reasonably
2 possible, including date and place of origin, and all available docu-
3 mentation of its present ownership;

4 (3) a statement by the owner, signed under oath, that that
5 person is the true owner of the artifact and has the sole right to
6 alienate title;

7 (4) a list of all persons known to assert now, or known to
8 have asserted in the past, a conflicting claim regarding ownership or
9 the right to alienate the artifact; and

10 (5) proof of posting in a public place in the community
11 nearest or most closely associated with the artifact, and of publica-
12 tion in at least one newspaper of general circulation in the same
13 community, a notice of intent to sell which clearly identifies the
14 artifact and its location.

15 (b) Within 30 days after filing of the information required by
16 this section, the director of the Alaska State Museum shall

17 (1) bring an action through the attorney general to deter-
18 mine ownership of the artifact;

19 (2) bring an action through the attorney general to acquire
20 title to the artifact through eminent domain, under AS 41.35.060(c),
21 if the artifact is found to be of substantial importance to Alaskan
22 heritage and will otherwise be lost to the people of Alaska; or

23 (3) inform the person intending to sell the artifact that
24 the state will not take action under (1) or (2) of this subsection.

25 * Sec. 7. AS 41.35.200 is amended to read:

26 Sec. 41.35.200. UNLAWFUL ACTS. (a) A person may not appropri-
27 ate, excavate, remove, injure, or destroy, without a permit from the
28 commissioner, any historic, prehistoric, [OR] archeological, or cul-
29 tural resources belonging to [OF] the state.

1 **(b) A person may not appropriate, excavate, remove, injure, or**
2 **destroy, without permission of the landowner, any historic, prehistor-**
3 **ic, archeological, or cultural resource located on privately owned**
4 **land, unless the person is the owner of the resource or has the per-**
5 **mission of the owner.**

6 **(c) [(b)] A person may not possess, sell, buy, or transport**
7 **within the state, or offer to sell, buy, or transport within the**
8 **state, historic, prehistoric, [OR] archeological, or cultural re-**
9 **sources taken, [OR] acquired, sold, or possessed in violation of this**
10 **chapter [SECTION] or 16 U.S.C. 433.**

11 **(d) A person may not sell, buy, or transport within the state in**
12 **connection with a sale or purchase, an Alaskan heritage artifact**
13 **unless the seller has complied with AS 41.35.095.**

14 **(e) [(c)] A person may not unlawfully destroy, mutilate, de-**
15 **face, injure, remove, or excavate a grave site or a tomb, monument,**
16 **gravestone, or other structure or object at a grave site, even though**
17 **the grave site appears to be abandoned, lost, or neglected.**

18 **(f) [(d)] A state-owned [AN] historic, prehistoric, [OR]**
19 **archeological, or cultural resource which is taken in violation of**
20 **this chapter [SECTION] shall be seized by any person designated in**
21 **AS 41.35.220 wherever found and at any time. Objects seized may be**
22 **disposed of as the commissioner determines by deposit in the proper**
23 **public depository.**

24 * Sec. 8. AS 41.35.210 is repealed and reenacted to read:

25 **Sec. 41.35.210. PENALTIES. A person who violates a provision of**
26 **this chapter is guilty of**

27 **(1) a class A misdemeanor for a violation involving an**
28 **artifact or object with a market value under \$25,000, or a violation**
29 **that does not involve an artifact or object;**

1 (2) a class C felony for violations involving an artifact
2 or object with a market value of \$25,000 to \$100,000; and

3 (3) a class B felony for violations involving an artifact
4 or object with a market value of more than \$100,000.

5 * Sec. 9. AS 41.35.230(4) is amended to read:

6 (4) "historic, prehistoric, [AND] archeological, and cul-
7 tural resources" includes deposits, structures, ruins, sites, build-
8 ings, graves, artifacts, fossils, ceremonial objects, or other objects
9 of antiquity which provide information pertaining to the historical or
10 prehistorical culture of the people in the state as well as to the
11 natural history of the state, and includes an Alaskan heritage arti-
12 fact.

13 * Sec. 10. AS 41.35.230 is amended by adding a new paragraph to read:

14 (5) "Alaskan heritage artifact" means an object with cul-
15 tural, artistic, or historical value, created or used in Alaska, which
16 is over 40 years old and has a market value of more than \$25,000.

17 * Sec. 11. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

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