

Introduced: 2/27/87
Referred: Community & Regional Affairs
and Judiciary

5-0544A

1 IN THE SENATE BY DUNCAN, HENSLEY AND ZHAROFF
2 SENATE BILL NO. 147
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to preservation of cultural and
7 historic property; and providing for an effective
8 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 exist-
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 has been established by Alaska Native custom and
16 tradition for protection and preservation of ceremonial, cultural, or
17 religious property, other than real 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 for
23 protection and preservation of ceremonial, cultural, or religious
24 property, other than real property, on behalf of all members of a
25 clan, house, band, or other traditional group of Alaska Natives as
26 owners in common, upon a showing, by a preponderance of the evidence,
27 of a grant or assignment according to established Alaska Native custom
28 and tradition.
29 * Sec. 3. AS 41.35.200 is repealed and reenacted to read:

1 Sec. 41.35.200. UNLAWFUL ACTS. (a) A person may not appropri-
2 ate, excavate, remove, injure, or destroy a historic, prehistoric,
3 archaeological, or cultural resource to which the state has reserved
4 title, unless the person has a permit for that purpose issued by the
5 commissioner.

6 (b) A person may not appropriate, excavate, remove, injure, or
7 destroy a historic, prehistoric, archaeological, or cultural resource
8 located on privately-owned land, unless the person

9 (1) is the owner of the resource or has the permission of
10 its owner to do so; and

11 (2) has the permission of the landowner to enter the land
12 for that purpose.

13 (c) A person may not possess, sell, buy, trade, or transport
14 within the state, or offer to sell, buy, trade, or transport within
15 the state, a historic, prehistoric, archaeological, or cultural re-
16 source taken, acquired, sold, or possessed in violation of this chap-
17 ter or 16 U.S.C. 433.

18 (d) A person may not unlawfully destroy, mutilate, deface,
19 injure, remove, or excavate a burial site, tomb, monument, gravestone,
20 or other structure or object at a burial site, even though the site
21 appears to be abandoned, lost, or neglected.

22 (e) A person designated in AS 41.35.220 shall seize a historic,
23 prehistoric, archaeological, or cultural resource to which the state
24 has reserved title and that has been taken in violation of this chap-
25 ter, wherever and whenever the person finds the resource. Seized
26 objects may be disposed of as the commissioner determines by deposit
27 in the proper public depository.

28 * Sec. 4. AS 41.35.210 is repealed and reenacted to read:

29 Sec. 41.35.210. PENALTIES. (a) A person who violates a

1 provision of this chapter is guilty of a class A misdemeanor.

2 (b) In addition to criminal penalties, a person who violates a
3 provision of this chapter is liable for a civil penalty not to exceed
4 three times the pecuniary gain resulting from the violation.

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

6 (4) "historic, prehistoric, [AND] archaeological, or
7 cultural resource [RESOURCES]" includes deposits, structures, ruins,
8 sites, buildings, graves, artifacts, fossils, ceremonial objects, or
9 other objects of antiquity that [WHICH] provide information pertaining
10 to the historical or prehistorical culture of people in the state as
11 well as to the natural history of the state.

12 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).