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349

Alaska State Legislature

OFFICIAL BUSINESS

CHAIRMAN
RULES COMMITTEE

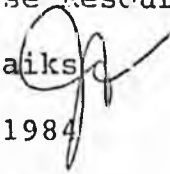


JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

MEMORANDUM

TO: Representative John Ringstad
Chairman, House Resources Committee

FROM: Senator Jan Faiks 

DATE: February 15, 1984

RE: Senate Bill 349—An Act Relating to the Use of
Animals for Pecreational Activities in State
Parks

Senate Bill 349 has been referred to the House Resources Committee. I would very much appreciate a hearing for the bill as soon as your schedule permits.

SB 349 came about as a result of concern by horse owners in my district about being allowed access to state parks with their animals. The Department of Natural Resources is in the process of amending regulations relating to the use of state parks. Equestrians have been riding in Chugach State Park for sometime. The horse owners recognize that some areas of the park are very sensitive, such as the tundra area. They are only concerned that they retain the right to ride their horses in some area of the park.

11 AAC 12.010 (Limitation on use of park land and water) as proposed establishes a procedure for special use areas within a state park. Application can be made to the director for the designation of a particular area within a park as a special use area. Emergency designations can be made for a 90 day period. Those seeking access in a state park could petition the director for such once these regulations are adopted.

This revision provides a simple mechanism that will accommodate multiple use of the state park system. While the management, regulation, and designation of the park system remains under the division's authority, a structured procedure is created for the application of special use areas.

This bill does not require the Department to permit horses and other pack animals in state parks. It only requires that in establishing the criteria for the opening and closing of areas, the Department will have to consider whether these animals are compatible for use within a state park. By establishing the horse owners as a users group in statute, they will have more

leverage when making their case with the Department. One of the biggest problems has been the indecision that occurs every time the Division of Parks gets a new director. Because there is no statutory direction given, the horse owners are required to make their case anew every time there is a personnel change at DNR.

This bill does not give animal owners the absolute privilege of using any state park. It only makes them a users group to be given some consideration when the Department establishes criteria for designating special use areas in state parks. The Department has assured me that they have no problem with this change, and in fact testified in favor of the bill in the Senate Resources Committee.

Should you or your staff have any questions, please let me know.

Thank you. I look forward to working on this legislation with your committee.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/27/84

REQUEST

Bill/Resolution No.: CS SB 349
Title: Activities in State
parks

Sponsor: Faiks
Requestor: Resources
Date of Request: _____

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: _____
Div. of Parks

BRU, Program or Subprogram(s) Affected: _____
Park Management/Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Jim Price Phone: 265-4526
Division: Parks Date: 1/26/84

Approved by Commissioner: *William D. Arnold, Deputy* Date: 2/27/84
Agency: Department of Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

11 AAC 12.120. HORSES. Horses and pack stock shall not be ridden, driven, led, or otherwise used in a state park except in an area or on a roadway or trail of the state park designated by the director for the use of horses. (Eff. 1/12/73, Reg. 44)

Authority: AS 41.20.020
AS 41.20.040

(2) the maximum number of people to occupy a facility or area; and

(3) any other provision the director deems necessary to protect the health and welfare of

11 AAC 12.130. PETS. Dogs and other pets, while in a building, campground or other developed area of a state park, shall be on a leash not exceeding nine feet in length at all times. The director may prohibit dogs and other pets from areas or buildings in a state park. Seeing-eye dogs are exempt from prohibitions against pets in a building, campground, or other area of a state park. A dog or other pet running at large in a state park may be destroyed by a state park official. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 03.55.010 AS 41.20.020
AS 03.55.020 AS 41.20.040
AS 18.75.020

11 AAC 12.140. CONSTRUCTION OF STRUCTURES. No dock, cabin, home, building, or other structure may be constructed or maintained on state park lands or waters unless authorized by the director. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.20.020
AS 41.20.040

11 AAC 12.150. CONSTRUCTION OF SIGNS. Construction or display of signs in a state park is prohibited unless authorized by the director. (Eff. 8/1/68, Reg. 27; am 1/13/73, Reg. 44)

Authority: AS 41.20.020
AS 41.20.040

11 AAC 12.160. ASSEMBLY. (a) An assembly of more than 20 people in a state park is prohibited without a permit. A permit may be obtained by applying to the director. Where more than one application for the same period of time is received by the director, a permit shall be issued to the applicant filing the first application.

(b) The permit may provide

(1) restrictions as to facilities or area;

MEMORANDUM
DEPARTMENT OF NATURAL RESOURCES

State of Alaska
DIVISION OF PARKS

TO: Neil C. Johansen
Director

DATE: January 12, 1984

THRU: Skip Harding
Deputy Director

FILE NO: 6210-12-9

TELEPHONE NO: 279-3413

FROM: *P. J. P.*
Pete J. Parnis, Superintendent
Chugach/Southwest District

SUBJECT: Horses in Chugach

On January 11, 1984, I met with the Anchorage Horse Trails and Facilities Committee, which is the primary organization representing the interests of the equestrian community in the Anchorage area. The goal of the meeting was to identify how the use of horses in State Parks could be recognized as a legal recreational pursuit and to come to agreement on which trails in Chugach State Park would be open to horses.

After a lengthy and often heated discussion on why the Division could not simply do away with the current regulation, 11AAC 12.120 HORSES, and open all parks to horses, we knuckled down and proceeded to explore the various options available to open trails in Chugach State Park. Those methods being the formulation of a Division Order under the existing 11AAC 12.120, the application of the revised 11AAC 12.010 LIMITATION ON USE OF PARK LAND AND WATER, when adopted, or the inclusion of Horses in 11AAC 20 when those regulations are promulgated.

Prior to attending the meeting, I consulted the Deputy Director to ascertain which method would best apply to this particular situation. We agreed that due to the length of time required to promulgate Chapter 20 and the uncertainty as to when the proposed 11AAC 12.010 would be in effect, the best direction at this time would be to issue a Division Order opening trails to horses.

I integrated this rationale into the meeting and those in attendance were concerned about the possibility of this Division Order being repealed at a later date. I explained that the likelihood of that occurring was remote, without a similar order or regulation being in place or in the process of being promulgated.

To summarize, the issuance of a Division Order opening trails in Chugach State Park will serve to depolitize the issue and recognize the use of horses as a legal activity on designated trails. The wording of the Division Order (draft attached) will be such that it can be used under the procedure outlined in the proposed 11AAC 12.010 or to be promulgated at a later date in Chapter 20.

PJP/lk

DELIVER TO: <i>Carol Wilcox</i>	LOCATION: <i>SWR - JWC</i>
FROM: <i>Parks</i>	LOCATION: <i>Boak</i>
TELEPHONE/TELECOPIER #	TOTAL NUMBER OF PAGES <i>3</i>

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

BILL SHEFFIELD, GOVERNOR

819 WAREHOUSE AVE., SUITE 210
ANCHORAGE, ALASKA 99501
PHONE: (907) 273-2553

January 12, 1984

Division Order No. 55

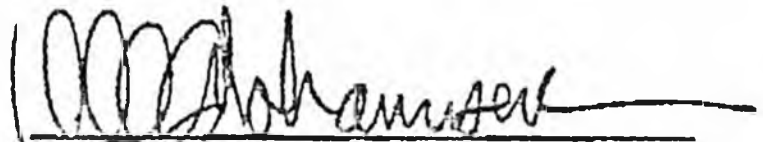
SUBJECT: Use of Horses in Chugach State Park

AUTHORITY: AS 41.21.020
AS 41.21.040
11AAC 12.120

1. All areas of Chugach State Park are open to the use of horses and pack stock with the exception of the following areas:
 - A. Campgrounds, swim beaches and picnic areas;
 - B. The Eagle River Valley from Crow Pass to the Eagle River Visitor Center;
 - C. The Old Johnson Trail from Potter to Indian;
 - D. All trails in the Hillside Trail System (North Fork of Campbell Creek to Rabbit Creek) from April 1 to June 1 annually;
 - E. Designated trails in the Hillside Trail System;
 - 1) Glen Alps access trails to the Powerline;
 - 2) Trails and roads above (southeast of) the gas-line and powerline junction from Nov. 1 to June 1 annually;
 - 3) All trails east of the powerline from Nov. 1 to June 1 annually;
 - 4) The Wolverine Peak Trail from Nov. 1 to June 1 annually;
 - 5) Middle Fork Loop Trail;
 - 6) Flattop Mountain Trail;

Division Order No. 55 (con't)
January 12, 1984
Page 2 of 2

2. Groups consisting of ten or more animals must obtain a Park Use Permit prior to entering the park;
3. Quartering of horses and packstock within 100' of fresh water is prohibited.



Neil C. Schanzen, Director
Division of Parks and Outdoor Recreation

CHAPTER 12. PUBLIC USE.

Article

1. State Park Land and Water Restrictions (11 AAC 12.010 -- 11 AAC 12.050)
2. Trails, Roads and Campsites (11 AAC 12.100 -- 11 AAC 12.230)
3. General Provisions (11 AAC 12.300 -- 11 AAC 12.340)

ARTICLE 1. STATE PARK LAND AND WATER RESTRICTIONS.

Section

10. Limitation on use of park land[S] and water[S]
20. Speed limits in parks
30. Park land or water[S CLOSED] open to aircraft [OR BOATS]
35. Park water open to boats
40. (Repealed)
50. Refuse and waste

1. AAC 12.010 is repealed and readopted to read:

11 AAC 12.010. LIMITATION ON USE OF PARK LAND AND WATER. (a) Subject to those use designations, if any, established by statute or 11 AAC 20 for an individual park, the director may designate special use areas within a park as:

(1) open to a particular activity but subject to specific conditions of use not required of other activities in the area;

(2) open to a particular activity only if authorized by a park land use permit obtained under 11 AAC 18.010; or

(3) closed to a particular activity which would otherwise be allowed either with or without a park land use permit obtained under 11 AAC 18.010.

(b) Subject to those use designations established by statute or 11 AAC 20, the director may designate an area within a park as a special use area. Any person may petition the director in writing to designate a specific area as a special use area. Except as otherwise provided in this section, designation of a special use area may not be made unless the department publishes notice of the designation once each week for four consecutive weeks in a newspaper of general circulation in the vicinity of the park and provides opportunity for hearing. When the director declares an emergency situation, a special use designation is effective immediately, and the department will publish notice of the designation within ten days of the declaration. An emergency designation is effective for not longer than 90 days, and terminates unless a notice of intent to designate the area permanently for a special use is made by the department by publishing notice in the manner prescribed for other special use designations, including an opportunity for a hearing. An emergency special use designation may not be renewed for the same emergency

REGULATIONS DRAFT # HEARING

- 7. Trails, Footpaths and Campsites (§§ 41.21.850 — 41.21.872)
- 8. Miscellaneous Provisions (§§ 41.21.900 — 41.21.918)
- 9. General Provisions (§§ 41.21.950 — 41.21.990)

Article 1. Administration.

<p>Section</p> <p>10. Purpose</p> <p>20. Duties of Department of Natural Resources</p> <p>25. Zoning of private land within state parks</p>	<p>Section</p> <p>30. Disposition of funds</p> <p>40. Division within department</p>
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Collateral references. — 59 Am. Jur. 2d, Parks, Squares and Playgrounds, §§ 1 — 15; 63 Am. Jur. 2d, Public Lands, § 17. 81A C.J.S., States, §§ 138, 145 — 150.

Statutes relating to establishment or administration of parks as encroachment on right of local self-government, 88 ALR 228.

Sec. 41.21.010. Purpose. It is the purpose of AS 41.21.010 — 41.21.040 to foster the growth and development of a system of parks and recreational facilities and opportunities in the state, for the general health, welfare, education, and enjoyment of its citizens and for the attraction of visitors to the state. (§ 1 ch 158 SLA 1959)

Revisor's notes. — Formerly AS 41.20.010. Renumbered in 1983.

Sec. 41.21.020. Duties of Department of Natural Resources. The Department of Natural Resources shall

- (1) develop a continuing plan for the conservation and maximum use in the public interest of the scenic, historic, archaeological, scientific, biological, and recreational resources of the state;
- (2) plan for and develop a system of state parks and recreational facilities, to be established as the legislature authorizes and directs;
- (3) acquire by gift, purchase, or transfer from state or federal agencies, or from individuals, corporations, partnerships or associations, land necessary, suitable and proper for roadside, picnic, recreational or park purposes;
- (4) control, develop and maintain state parks and recreational areas;
- (5) provide for the acquisition, care, control, supervision, improvement, development, extension and maintenance of public recreational land, and make necessary arrangements, contracts or commitments for the improvement and development of land acquired under AS 41.21.010 — 41.21.040;
- (6) adopt, in accordance with this section and the Administrative Procedure Act (AS 44.62), regulations governing the use and

designating incompatible uses within the boundaries of state park and recreational areas to protect the property and to preserve the peace;

(7) cooperate with the United States and its agencies and local subdivisions of the state to secure the effective supervision, improvement, development, extension, and maintenance of state parks, state monuments, state historical areas, and state recreational areas, and secure agreements or contracts for the purpose of AS 41.21.010 — 41.21.040;

(8) encourage the organization of state public park and recreational activities in the local political subdivisions of the state;

(9) provide for consulting service designed to develop local park and recreation facilities and programs;

(10) provide clearing-house services for other state agencies concerned with park and recreation matters; and

(11) perform other duties as are prescribed by executive order or by law;

(12) maintain memorials to Alaska veterans located in state parks;

(13) adopt, in accordance with the Administrative Procedure Act (AS 44.62), regulations governing the use of the Chena River State Recreation Area and designating incompatible uses within the boundaries of the Chena River State Recreation Area in accordance with AS 41.21.490. (§ 2 ch 158 SLA 1959; am § 1 ch 223 SLA 1970; am § 3 ch 30 SLA 1981; am §§ 1, 2 ch 78 SLA 1981)

Revisor's notes. — Formerly AS 41.20.020. Renumbered in 1983.

The present second sentence of AS 41.21.490 was originally enacted as part of (13) of this section and was transferred, with appropriate minor word changes in (13) of this section in 1981. Two paragraphs (12) were added by the 1981 amendments. The paragraph added by the second amendment was renumbered as (13).

Cross references. — For power of the department of military affairs to construct

memorials to veterans, see AS 41.35.030.

Effect of amendments. — The first 1981 amendment added paragraph (12).

The second 1981 amendment made minor word changes in paragraph (6) and added paragraph (13).

Collateral references. — Grant of licenses or special privileges in parks, 18 ALR 1263; 63 ALR 484; 144 ALR 486.

Use to which park property may be devoted; power of legislature or state officers, 18 ALR 1266; 63 ALR 484; 144 ALR 486.

Sec. 41.21.025. Zoning of private land within state parks. (a) The department may adopt, under the Administrative Procedure Act (AS 44.62), zoning regulations governing private property within the boundaries of state parks established under this chapter.

(b) Land patented to or under interim conveyance to a regional or village native corporation under 43 U.S.C. 1601-1628 (P.L. 92-203, Alaska Native Claims Settlement Act) which falls within a state park boundary is subject to the zoning regulations provided for under (a) of this section only if the affected regional or village native corporation consents to or fails to reject the zoning regulations within 60 days from the date they are submitted to the effected corporation.