



# LAWS OF ALASKA

1974

**Source**

HB 387 am

**Chapter No.**

112

**AN ACT**

Relating to the Alaska Historic Preservation Act.

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

\* Section 1. AS 41.35.070 is amended to read:

Sec. 41.35.070. PRESERVATION OF HISTORIC, PREHISTORIC AND ARCHEOLOGICAL RESOURCES THREATENED BY PUBLIC CONSTRUCTION. (a) The department shall locate, identify and preserve in suitable records information regarding historic, prehistoric and archeological sites, locations and remains. The information shall be submitted to the heads of the executive departments of the state.

(b) Before public construction or public improvement of any nature is undertaken by the state, or by a governmental agency of the state or by a private person under contract with or licensed by the state or governmental agency of the state, the department may survey the affected area to determine if the area contains historic, prehistoric or archeological values.

(c) If the department determines that historic, prehistoric or archeological sites, locations or remains will be adversely affected by the public construction or improvement, the proposed public construction or improvement may not be commenced until the department has performed the necessary investigation, recording and salvage of the site, location or remains. All investigation, recording and salvage work shall be performed as expeditiously as possible so that no state construction project will be unduly impaired, impeded or delayed.

(d) If in the course of performing public construction or improvements, historic, prehistoric or archeological

sites, locations, remains or objects are discovered, the department shall be notified and its concurrence shall be requested in continuing the construction or improvement. Upon receipt of this notice, the department shall survey the area to determine whether the area contains historic, prehistoric or archeological data which should be preserved in the public interest. The survey shall be conducted as expeditiously as possible. If, as a result of the survey, it is determined that (1) this data exists in the area, (2) the data has exceptional historic, prehistoric or archeological significance, and should be collected and preserved in the public interest, and (3) it is feasible to collect and preserve the data, the department shall perform the necessary work to collect and preserve the data. This work shall be performed as expeditiously as possible.

(e) If the concurrence of the department, required under (b) and (c) of this section, is not obtained after 90 days from the filing of a request for its concurrence to proceed with the project, the agency or person performing the construction or improvement may apply to the governor for permission to proceed without that concurrence and the governor may take the action he considers best in overruling or sustaining the department.

(f) The costs of investigation, recording and salvage of the site shall be reimbursed by the agency sponsoring the construction project.

(g) Notwithstanding (a) - (f) of this section, all actions to stop any project must first be approved in writing by the commissioner of natural resources.

\* Sec. 2. AS 41.35.080 is amended to read:

Sec. 41.35.080. PERMITS. The commissioner may issue a permit for the investigation, excavation, gathering or removal from the natural state, of any historic, prehistoric or archeological resources of the state. A permit may be issued only to persons or organizations qualified to make the investigations, excavations, gatherings or removals and only if the results of these authorized activities will be made available to the general public through institutions and museums interested in disseminating knowledge on the subjects involved. If the historic, prehistoric or archeological resource involved is one which is, or is located on a site which is, sacred, holy or of religious significance to a cultural group, the consent of that cultural group must be obtained before a permit may be issued under this section.

\* Sec. 3. AS 41.35.090 is amended to read:

Sec. 41.35.090. NOTICE REQUIRED OF PRIVATE PERSONS. Before any construction, alteration or improvement of any nature is undertaken on a privately owned, officially designated state monument or historic site by any person, he shall give the department three months notice of intention to construct on, alter or improve it. Before the expiration of the three-month notification period, the department shall either begin eminent domain proceedings under sec. 60(b) of this chapter or undertake or permit the recording and

salvaging of any historic, prehistoric or archeological information considered necessary.

- \* Sec. 4. AS 41.35.100 is amended to read:

Sec. 41.35.100. EXCAVATION AND REMOVAL OF HISTORIC, PREHISTORIC OR ARCHEOLOGICAL REMAINS ON PRIVATE LAND. Before any historic, prehistoric or archeological remains are excavated or removed from private land by the department, the written approval of the owner shall first be secured. When the value of the private land is diminished by the excavation or removal, the owner of the land shall be compensated for the loss at a monetary sum mutually agreed on by the department and the owner or at a monetary sum set by the court.

- \* Sec. 5. AS 41.35.120(1) is amended to read:

(1) the director of the Alaska State Museum;

- \* Sec. 6. AS 41.35.120(3) is amended to read:

(3) three persons with professionally relevant backgrounds appointed from each of the following fields: history, architecture and archeology; and

- \* Sec. 7. AS 41.35.180(2) is amended to read:

(2) cooperate with the Department of Natural Resources in formulating and administering a statewide historic sites survey under the National Historic Preservation Act of 1966, Public Law 89-665 (80 Stat. 915);

- \* Sec. 8. AS 41.35.200(b) is amended to read:

(b) It is unlawful for a person to possess, sell, buy or transport within the state, or offer to sell, buy or transport within the state, historic, prehistoric or archeological resources taken or acquired in violation of this section or 16 U.S.C. 433.

- \* Sec. 9. AS 44.37 is amended by adding a new section to read:

Sec. 44.37.040. DUTIES OF DEPARTMENT WITH RESPECT TO HISTORIC PRESERVATION AND ARCHEOLOGY. The Department of Natural Resources shall

(1) sponsor, engage in and direct fundamental research into the archeology of the state and encourage and coordinate archeological research and investigation undertaken in the state;

(2) cooperate with the Historic Sites Advisory Committee in performing their functions under AS 41.35;

(3) ensure that historic, prehistoric and archeological resources are properly reported by persons or agencies engaged in public construction work and protect sites and objects of significance discovered at state sites or discovered during the course of public construction and encourage the protection of sites and objects discovered

during the course of any other construction work;

(4) investigate reported historic, prehistoric or archeological resources and appraise them for any future excavation, preservation and interpretation;

(5) serve as a central clearinghouse for information on all historic, prehistoric and archeological resource excavation in the state.

\* Sec. 10. AS 44.37.190 is repealed.