

ALASKA STATUTES

Title 41. Public Resources

Chapter 15. Forests

Article 1. Protection of forested land

Sec. 41.15.010. Intent. It is the intent of AS 41.15.010 - 41.15.170 to provide protection from wildland fire and other destructive agents, commensurate with the values at risk, on forested land that is owned privately, by the state, or by a municipality. (§ 1 ch 138 SLA 1961; am § 1 ch 88 SLA 1984; am § 3 ch 22 SLA 2008; am § 2 ch 63 SLA 2018)

Sec. 41.15.020. Regulations. The commissioner shall, by regulation, make provision for the protection of forested land in the state from fire and other destructive agents. (§ 2 ch 138 SLA 1961)

Sec. 41.15.025. Fire protection on mental health trust land. Land that is in the mental health trust is, for the purpose of wild fire suppression, land owned by the state. (§ 14 ch 66 SLA 1991)

Sec. 41.15.030. Contracts for forest protection; emergency firefighters.

(a) The commissioner may enter into necessary protection contracts.

(b) The commissioner may hire emergency firefighting personnel, and shall establish classifications and rates of pay for the emergency firefighting personnel consistent with the compensation paid by other fire-fighting agencies. The commissioner may adjust the classifications and rates based on findings of the federal Bureau of Land Management for Alaska. The commissioner may assign emergency firefighting personnel to conduct fire suppression, hazard reduction, fire prevention, habitat restoration or improvement, and other related activities in emergency and nonemergency circumstances. The assignment of emergency firefighting personnel to nonemergency activities may not be used to replace permanent or seasonal state employees. The commissioner may not use appropriations to the department from state general funds for emergency firefighting personnel engaged in nonemergency activities under this section. (§ 2 ch 138 SLA 1961; am § 1 ch 100 SLA 1976; am § 2 ch 88 SLA 1984; am § 2 ch 121 SLA 1996)

Sec. 41.15.040. Right of entry to control and suppress fires. (a) Upon approval by the commissioner or an authorized agent, an employee of the division of forestry, or of any organization authorized to prevent, control, or suppress a fire or a destructive agent, and others assisting in the control or suppression of a fire upon request of an officer or employee of the United

States or the state may, when responding to a wildland fire or suspected wildland fire or administering the provisions of this chapter, enter upon any land, whether publicly or privately owned, for the purpose of preventing, investigating, suppressing, or controlling a wildland fire or a destructive agent.

(b) A person may not interfere with or prohibit the access authorized under (a) of this section. (§ 2 ch 138 SLA 1961; am § 4 ch 22 SLA 2008; am §§ 3, 4 ch 63 SLA 2018)

Sec. 41.15.045. Civil immunity. (a) Notwithstanding other provisions of law, a person may not bring a civil action for damages for death, personal injury, or property damage that results from an act or omission in performing or failing to perform activities or duties arising out of prevention, monitoring, control, or suppression of fires authorized to be performed under AS 41.15.010 - 41.15.170 against

(1) the state or its officers, agents, and employees;

(2) a political subdivision of the state or its officers, agents, and employees;

(3) any organization authorized to prevent, control, or suppress fires; or
(4) others assisting in the control or suppression of fires at the request of an officer or employee of the United States or the state.

(b) This section does not apply to a civil action for damages as a result of intentional misconduct within the course and scope of employment or agency and with complete disregard for the safety and property of others. (§ 11 ch 43 SLA 2003)

Sec. 41.15.050. Fire season. The period from April 1 to August 31, inclusive, of each year is designated the fire season. The commissioner may, at any time, proclaim an additional period for all or any portion of the state when weather or other conditions require action for the protection of forested land. The commissioner may also, at any time, prohibit, or allow only by permit, the setting of fires, smoking, entry, or other use on the land, when, in the judgment of the commissioner, the activities would unduly increase the fire danger. (§ 3 ch 138 SLA 1961; am § 1 ch 27 SLA 1973; am § 1 ch 21 SLA 2006; am § 5 ch 63 SLA 2018)

Sec. 41.15.060. Permits. (a) The commissioner shall, by regulation, prescribe the conditions of and the manner for obtaining a permit for the setting of fires, use of burning devices, and other activities and uses of land that increase fire danger.

(b) A person may not set fires, use burning devices, or conduct other

activities or use land that increases fire danger without a permit as prescribed by the commissioner in regulation under (a) of this section. (§ 3 ch 138 SLA 1961; am § 1 ch 179 SLA 1970; am §§ 6, 7 ch 63 SLA 2018)

Sec. 41.15.070. Disposal of burning materials. During the fire season, a burn closure, or restriction established under AS 41.15.050, a person may not discard any lighted tobacco, cigar, cigarette, match, firecracker, or other burning material on forested land. (§ 4 ch 138 SLA 1961; am § 8 ch 63 SLA 2018)

Sec. 41.15.090. Building or leaving fires. (a) A person may not start a fire in or near forested land without first clearing the ground immediately around it free from materials that will carry fire.

(b) A person who starts a fire in or near forested land may not leave the fire before totally extinguishing the fire. (§ 6 ch 138 SLA 1961; am §§ 9, 10 ch 63 SLA 2018)

Sec. 41.15.100. Setting fires without consent. A person may not set on fire forested land, or other inflammable material located or growing on land that is not owned, possessed, or controlled by the person, without the consent of the owner or lawful occupant of the land. (§ 7 ch 138 SLA 1961; am § 11 ch 63 SLA 2018)

Sec. 41.15.110. Uncontrolled spread of fire; leaving fire unattended. (a) A person who knows of a fire or sets a fire on forested land owned, possessed, or controlled by the person, shall exercise due care to prevent the uncontrolled spread of the fire.

(b) A person shall make every effort possible to extinguish a fire the person knowingly sets on forested land and may not leave a fire unattended.

(c) In a criminal action brought under this section, the escape of the fire may be considered by a court as evidence that the person responsible for starting the fire acted knowingly. (§ 8 ch 138 SLA 1961; am § 2 ch 179 SLA 1970; am § 12 ch 63 SLA 2018)

Sec. 41.15.120. Failure to assist in preventing or suppressing fires. If an officer or employee of the United States or the state who is authorized to prevent, investigate, or suppress fires requests a person to assist in the prevention or suppression of a fire and informs the person of the officer or employee's official status, the person shall assist the officer or employee. (§ 9 ch 138 SLA 1961; am § 13 ch 63 SLA 2018)

Sec. 41.15.130. Backfires and burnouts excluded. AS 41.15.010 -

41.15.040 and 41.15.050 - 41.15.170 do not apply to the setting of backfires, burnouts, and other burning or clearing of land under the direction of an officer or employee of the United States or the state who is authorized to prevent or suppress fires. (§ 9 ch 138 SLA 1961; am § 14 ch 63 SLA 2018)

Sec. 41.15.140. Penalty. Except as provided in AS 41.15.150, a person who (1) knowingly violates a provision of AS 41.15.040 - 41.15.130 is guilty of a Class A misdemeanor punishable as provided in AS 12.55; (2) without any culpable mental state, violates a provision of AS 41.15.040 - 41.15.130 or a regulation adopted under AS 41.15.040 - 41.15.130 is guilty of a violation and upon conviction is punishable by a fine under AS 12.55. (§ 10 ch 138 SLA 1961; am § 15 ch 63 SLA 2018)

Sec. 41.15.150. Criminal burning of forested land in the first degree. (a) A person commits the crime of criminal burning of forested land in the first degree if

(1) the person violates AS 41.15.155; and

(2) the person's actions or conduct violate a provision of AS 41.15.010 - 41.15.130 or a regulation adopted under AS 41.15.010 - 41.15.130.

(b) Criminal burning of forested land in the first degree is a class B felony punishable as provided in AS 12.55. (§ 11 ch 138 SLA 1961; am § 16 ch 63 SLA 2018)

Sec. 41.15.155. Criminal burning of forested land in the second degree.

(a) A person commits the crime of criminal burning of forested land in the second degree if

(1) the person knowingly sets a fire;

(2) with criminal negligence, the person

(A) permits the fire to spread beyond the person's control; or

(B) fails to prevent the fire from spreading to forested land or other flammable material; and

(3) as a result, the fire burns forested land or other flammable material

located or growing on land that is not owned, possessed, or controlled by the person.

(b) Criminal burning of forested land in the second degree is a class C felony punishable as provided in AS 12.55. (§ 17 ch 63 SLA 2018)

Sec. 41.15.160. Double damages in civil actions. In addition to the criminal punishment provided for by AS 11.46.400 - 11.46.450, AS 41.15.140, 41.15.150, and 41.15.155, the United States, the state, a municipality, or any person may recover in a civil action double the amount of damages sustained

as a consequence of a violation of AS 11.46.400 - 11.46.450, AS 41.15.010 - 41.15.155. In a civil action brought under AS 41.15.010 - 41.15.170 or any other law relating to the subject matter of AS 41.15.010 - 41.15.170, the escape of a fire is presumptive evidence of negligence by the person responsible for starting the fire and unless rebutted is sufficient to sustain the recovery. (§ 12 ch 138 SLA 1961; am § 18 ch 63 SLA 2018)

Sec. 41.15.170. Definitions. In AS 41.15.010 - 41.15.170,

- (1) "damages" includes costs incurred in suppressing, controlling, or extinguishing a fire;
- (2) "destructive agent" means an insect, pathogen, or other environmental agent that causes damage to a forest resource;
- (3) "forested land" includes all land on which grass, brush, timber, and other natural vegetative material grows;
- (4) "wildland fire" includes the uncontrolled burning of grass, brush, timber, and other natural vegetative material.
- (5) "criminal negligence" has the meaning given in AS 11.81.900;
- (6) "knowingly" has the meaning given in AS 11.81.900. (§ 1 ch 138 SLA 1961; am § 3 ch 179 SLA 1970; am § 43 ch 85 SLA 1988; am § 5 ch 22 SLA 2008; am § 19 ch 63 SLA 2018)

[...]

Article 6. General Provisions.

Sec. 41.15.950. Enforcement authority. (a) The following persons are peace officers of the state and they shall enforce the provisions of this chapter and the regulations adopted under this chapter:

- (1) solely for the purpose of enforcing this chapter, an employee of the department, or other person, authorized by the commissioner;
- (2) a police officer in the state.

(b) A person designated in (a) of this section may, when enforcing the provisions of this chapter or a regulation adopted under this chapter,

- (1) execute a warrant or other process issued by an officer or court of competent jurisdiction;
- (2) administer or take an oath, affirmation, or affidavit;
- (3) arrest a person who violates a provision of this chapter or a regulation adopted under this chapter; and
- (4) issue a citation to a person who violates a provision of AS 41.15.010 - 41.15.170 or a regulation adopted under this chapter.

(c) A person is not required under this section to disclose a deadly weapon under AS 11.61.220(a)(1)(A) to a peace officer described under (a)(1) of this section. (§ 4 ch 179 SLA 1970; am §§ 20, 21 ch 63 SLA 2018)

Sec. 41.15.960. Bail schedules. The supreme court shall establish by rule or order a schedule of bail amounts for offenses under this chapter or under regulations adopted under this chapter that allow the disposition of a citation without a court appearance. The bail amount may not exceed the maximum fine authorized by law for that offense (§ 22 ch 63 SLA 2018)