

111TH CONGRESS
1ST SESSION

S. 868

To repeal certain provisions of the Federal Lands Recreation Enhancement Act.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2009

Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To repeal certain provisions of the Federal Lands Recreation Enhancement Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fee Repeal and Ex-
5 panded Access Act of 2009”.

6 **SEC. 2. RECREATION FEE AUTHORITIES.**

7 The Federal Lands Recreation Enhancement Act (16
8 U.S.C. 6801 et seq.) is amended—

9 (1) by striking section 801 (16 U.S.C. 6801
10 note) and inserting the following:

1 **“SEC. 801. SHORT TITLE.**

2 “This Act may be cited as the ‘Federal Lands Recre-
3 ation Enhancement Act’.”;

4 (2) by striking sections 802 through 812 (16
5 U.S.C. 6801 through 6811) and inserting the fol-
6 lowing:

7 **“SEC. 802. RECREATION FEE AUTHORITY.**

8 “(a) IN GENERAL.—Beginning January 1, 2010,
9 subject to subsections (c) and (d), the Secretary of the
10 Interior (referred to in this section as the ‘Secretary’) may
11 establish and collect any fee from individuals or groups
12 for—

13 “(1) admission to a unit of the National Park
14 System, including a commercial vehicle admission
15 fee for a National Park at a level determined by the
16 Secretary; and

17 “(2) the use of only the facilities or services de-
18 scribed in subsection (b) at Federal recreational land
19 or water under the jurisdiction of the Director of the
20 National Park Service.

21 “(b) AUTHORIZED FACILITIES AND SERVICES.—The
22 facilities and services referred to in subsection (a)(2) are
23 the following:

24 “(1) Use of developed campgrounds that pro-
25 vide at least a majority of the following:

26 “(A) Tent or trailer spaces.

1 “(B) Picnic tables.

2 “(C) Drinking water.

3 “(D) Access roads.

4 “(E) The collection of the fee by an em-
5 ployee or agent of the Federal land manage-
6 ment agency.

7 “(F) Reasonable visitor protection.

8 “(G) Refuse containers.

9 “(H) Toilet facilities.

10 “(I) Simple devices for containing a camp-
11 fire.

12 “(2) Use of highly developed boat launches with
13 specialized facilities or services, such as mechanical
14 or hydraulic boat lifts or facilities, multilane paved
15 ramps, paved parking, restrooms, and other im-
16 provements, such as boarding floats, loading ramps,
17 or fish cleaning stations.

18 “(3) Rental of cabins, boats, stock animals,
19 lookouts, historic structures, group day-use or over-
20 night sites, audio tour devices, portable sanitation
21 devices.

22 “(4) Use of hookups for electricity, cable, or
23 sewer.

24 “(5) Use of sanitary dump stations.

25 “(6) Use of transportation services.

1 “(7) Use of developed swimming sites that pro-
2 vide at least a majority of the following:

3 “(A) Bathhouses with showers and flush
4 toilets.

5 “(B) Refuse containers.

6 “(C) Picnic areas.

7 “(D) Paved parking.

8 “(E) Attendants, including lifeguards.

9 “(F) Floats encompassing the swimming
10 area.

11 “(G) Swimming decks.

12 “(c) PROHIBITION ON FEES FOR CERTAIN PERSONS
13 OR PLACES.—The Secretary shall not charge an admission
14 fee under subsection (a) for—

15 “(1) a person under 16 years of age;

16 “(2) an outing conducted for a noncommercial
17 educational purpose by a school or other academic
18 institution;

19 “(3)(A) the USS Arizona Memorial;

20 “(B) the Independence National Historical
21 Park;

22 “(C) any unit of the National Park System
23 within the District of Columbia; or

24 “(D) the Arlington House—Robert E. Lee Na-
25 tional Memorial;

1 “(4) the Flight 93 National Memorial;

2 “(5) an entrance on other route into the Great
3 Smoky Mountains National Park or any part of the
4 Park unless fees are charged for entrance into the
5 Park on main highways and thoroughfares;

6 “(6) an entrance to a unit of the National Park
7 System containing a deed restriction on charging
8 fees; or

9 “(7) an area or unit covered under section 203
10 of the Alaska National Interest Lands Conservation
11 Act (16 U.S.C. 410hh-2), other than the Denali Na-
12 tional Park and Preserve.

13 “(d) PROHIBITED SITES.—The Secretary shall not
14 charge a fee under subsection (a) for Federal recreational
15 land or water managed by—

16 “(1) the Director of the Bureau of Land Man-
17 agement; or

18 “(2) the Commissioner of Reclamation.

19 “(e) REQUIREMENTS.—In establishing fees pursuant
20 to this section, the Secretary shall—

21 “(1) establish the minimum practicable number
22 of fees; and

23 “(2) avoid, to the maximum extent practicable,
24 collection of multiple or layered fees for a variety of
25 activities or programs.

1 “(f) ANALYSIS.—

2 “(1) IN GENERAL.—Before establishing a fee
3 under subsection (a), the Secretary shall analyze—

4 “(A) the benefits and services provided to
5 visitors to National Parks;

6 “(B) the cumulative effect of the assess-
7 ment of the fee;

8 “(C) the direct and indirect cost and ben-
9 efit to the Federal Government with respect to
10 the fee;

11 “(D) applicable public policy and manage-
12 ment objectives;

13 “(E) the economic and administrative fea-
14 sibility of fee collection; and

15 “(F) such other factors as the Secretary
16 determines to be appropriate.

17 “(2) SUBMISSION TO CONGRESS.—Not later
18 than the date that is 90 days before the date on
19 which a fee established under subsection (a) is pub-
20 lished in the Federal Register, the Secretary shall
21 submit to Congress—

22 “(A) the analysis conducted with respect to
23 the fee under paragraph (1); and

24 “(B) a description of the level of the fee.

25 “(g) PUBLICATION.—

1 “(1) IN GENERAL.—The Secretary shall publish
2 in the Federal Register a notice of—

3 “(A) any new fee established pursuant to
4 this section; and

5 “(B) any change in the amount of such a
6 fee.

7 “(2) EFFECTIVE DATE.—A fee established pur-
8 suant to this section, and any modification to such
9 a fee, shall not take effect until the date that is 1
10 year after the date on which a notification regarding
11 the fee or modification is published in the Federal
12 Register under paragraph (1).

13 “(h) ADMINISTRATION.—

14 “(1) IN GENERAL.—The Secretary—

15 “(A) may waive or discount a fee estab-
16 lished pursuant to this section, as the Secretary
17 determines to be appropriate; and

18 “(B) shall provide information to the pub-
19 lic regarding any fee program under this sec-
20 tion, including a description of the costs and
21 benefits of the program.

22 “(2) ADMINISTRATIVE COSTS.—The Secretary
23 may use not more than 15 percent of the total
24 amount of fees collected pursuant to this section for

1 administrative costs of the recreation fee program,
2 including—

3 “(A) direct operating or capital costs;

4 “(B) the costs of fee collection;

5 “(C) the costs of notification of fee re-
6 quirements;

7 “(D) the costs of direct infrastructure;

8 “(E) fee program management costs;

9 “(F) the costs of bonding of volunteers;

10 “(G) start-up costs; and

11 “(H) the costs of analyzing and reporting
12 on program success and effects.

13 “(i) DISTRIBUTION OF RECEIPTS.—Of amounts re-
14 ceived by the Secretary as a result of a fee collected at
15 a specific area, site, or facility pursuant to this section—

16 “(1) not less than 80 percent shall be used at
17 the specific area, site, or facility in accordance with
18 subsection (j); and

19 “(2) not more than 20 percent shall be used for
20 other activities or facilities of the National Park
21 Service, as the Secretary determines to be appro-
22 priate.

23 “(j) USE OF FUNDS.—Amounts described in sub-
24 section (i)(1) may be used at an area, site, or facility for—

1 “(1) repair, maintenance, facility enhancement,
2 media services, and infrastructure, including projects
3 relating to visitor enjoyment, visitor access, environ-
4 mental compliance, and health and safety;

5 “(2) interpretation, visitor information, visitor
6 service, visitor needs assessments, monitoring, and
7 signs;

8 “(3) habitat enhancement, resource assessment,
9 preservation, protection, and restoration relating to
10 recreational uses; and

11 “(4) law enforcement relating to public use and
12 recreation.

13 “(k) REPORTS.—On January 1, 2014, and every 3
14 years thereafter, the Secretary shall submit to Congress
15 a report describing the status of the recreation fee pro-
16 gram under this section, including—

17 “(1) an evaluation of the program as conducted
18 at each unit of the National Park System;

19 “(2) a description of projects funded, activities
20 accomplished, and future projects and programs pro-
21 posed to be conducted using the fees; and

22 “(3) any recommendations for modifications to
23 the fee system of the Secretary.”

24 (3) in section 813 (16 U.S.C. 6812), by striking
25 subsections (e) and (f); and

1 (4) by striking section 814 (16 U.S.C. 6813).

2 **SEC. 3. REINSTATEMENT OF CERTAIN ADMISSION AND USE**

3 **FEE AUTHORITIES.**

4 (a) REPEAL.—Subsections (a), (c), and (d) of section
5 813 of the Federal Lands Recreation Enhancement Act
6 (16 U.S.C. 6812) are repealed effective December 8, 2004.

7 (b) APPLICABILITY.—

8 (1) LAND AND WATER CONSERVATION FUND
9 ACT OF 1965.—Subsections (a) through (f), and (g)
10 of section 4 of the Land and Water Conservation
11 Fund Act of 1965 (16 U.S.C. 460~~l~~–6a) shall be ap-
12 plied and administered as if section 813(a) of the
13 Federal Lands Recreation Enhancement Act (16
14 U.S.C. 6812(a)) had not been enacted.

15 (2) ADMISSION PERMITS FOR REFUGE UNITS.—
16 Section 201 of the Emergency Wetlands Resources
17 Act of 1986 (16 U.S.C. 3911) shall be applied and
18 administered as if section 813(c) of the Federal
19 Lands Recreation Enhancement Act (16 U.S.C.
20 6812(c)) had not been enacted.

21 (3) GOLDEN EAGLE PASSPORT.—Section 502 of
22 the National Parks Omnibus Management Act of
23 1998 (16 U.S.C. 5982) shall be applied and admin-
24 istered as if section 813(d) of the Federal Lands

1 Recreation Enhancement Act (16 U.S.C. 6812(d))
2 had not been enacted.

3 (4) NATIONAL PARK PASSPORT PROGRAM.—

4 (A) IN GENERAL.—Title VI of the Na-
5 tional Parks Omnibus Management Act of 1998
6 (16 U.S.C. 5991 et seq.) shall be applied and
7 administered as if section 813(d) of the Federal
8 Lands Recreation Enhancement Act (16 U.S.C.
9 6812(d)) had not been enacted.

10 (B) CONFORMING AMENDMENT.—Section
11 603(c) of the National Parks Omnibus Manage-
12 ment Act of 1998 (16 U.S.C. 5993(c)) is
13 amended by striking paragraph (2) and insert-
14 ing the following:

15 “(2) GENERAL USE.—Of amounts received by
16 the Secretary as a result of sales of national park
17 passports at a specific area, site, or facility—

18 “(A) not less than 50 percent shall remain
19 available for use at the specific area, site, or fa-
20 cility at which the sales occurred; and

21 “(B) not more than 50 percent shall be
22 used for other activities or facilities of the Na-
23 tional Park Service, as the Secretary deter-
24 mines to be appropriate.”.

1 (c) ADMISSION FEES.—Section 4(a) of the Land and
2 Water Conservation Fund Act of 1965 (16 U.S.C. 460l–
3 6a(a)) (as in effect after subsections (a) and (b) take ef-
4 fect) is amended—

5 (1) in paragraph (1)—

6 (A) in the first sentence of subparagraph
7 (A)(i), by striking “\$25” and and inserting
8 “\$65”; and

9 (B) in the second sentence of subpara-
10 graph (B), by striking “\$15” and inserting
11 “\$40”; and

12 (2) in paragraph (2)—

13 (A) in the fourth sentence, by striking
14 “\$5” and inserting “\$25”; and

15 (B) in the sixth sentence, by striking “\$3”
16 and inserting “\$12”.

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