

Calendar No. 474

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1703**

[Report No. 104-299]

---

---

**A BILL**

To amend the Act establishing the National Park  
Foundation.

---

---

JUNE 27, 1996

Reported with an amendment

# Calendar No. 474

104TH CONGRESS  
2D SESSION

# S. 1703

[Report No. 104-299]

To amend the Act establishing the National Park Foundation.

---

## IN THE SENATE OF THE UNITED STATES

APRIL 25, 1996

Mr. MURKOWSKI (for himself, Mr. JOHNSTON, Mr. BENNETT, Mr. KEMPTHORNE, Mr. LIEBERMAN, Mr. CAMPBELL, and Mr. JEFFORDS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JUNE 27, 1996

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

---

## A BILL

To amend the Act establishing the National Park Foundation.

1       *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*  
 3 ~~That the Act of December 18, 1967 (16 U.S.C. 19e-19n),~~  
 4 ~~entitled "An Act to establish the National Park Founda-~~  
 5 ~~tion", is amended:~~

1           (1) in section 1—

2                   (A) by striking “therein” and inserting in  
3           lieu thereof “therein, and to develop and imple-  
4           ment means of securing funds from the private  
5           sector,”; and

6                   (B) by striking “to accept and administer  
7           such gifts”;

8           (2) in section 3—

9                   (i) by inserting “(a)” after “SEC. 3.”;

10                   and

11                   (ii) by inserting at the end thereof the  
12           following—

13           “(b) In furtherance of the purposes of this Act, the  
14           Foundation shall have exclusive authority to license or au-  
15           thorize persons to use any trademark, tradename, sign,  
16           symbol, emblem, insignia, logo, likeness or slogan to rep-  
17           resent, promote, or advertise that an individual, company,  
18           or particular good or service is an official sponsor or sup-  
19           porter of the National Park System, National Park Serv-  
20           ice, or any unit of the National Park System: *Provided,*  
21           That any license or authorization referred to in this sub-  
22           section shall be subject to the prior written approval of  
23           the Secretary of the Interior, who may not delegate this  
24           authority: *Provided further,* That except as provided in  
25           this Act, no person may use for commercial purposes any

1 trademark, tradename, sign, symbol, emblem, insignia,  
 2 slogan, or related artistic design belonging to the National  
 3 Park Service.”;

4 (3) in section 4—

5 (A) by inserting “and section 8(b)” be-  
 6 tween “transfer” and the comma;

7 (B) by inserting “license,” between  
 8 “lease,” and “invest”; and

9 (C) by striking “any business, nor shall the  
 10 Foundation” and inserting in lieu thereof  
 11 “business for pecuniary profit or gain, except as  
 12 provided in section 8(b); operate any commer-  
 13 cial establishment or enterprise within any unit  
 14 of the National Park System; engage in any  
 15 lobbying activities as defined in section 3(7) of  
 16 the Lobbying Disclosure Act of 1995 (2 U.S.C.  
 17 1602(7)) concerning the management of the  
 18 National Park System; or”;

19 (4) in section 8—

20 (A) by inserting “(a)” after “SEC. 8.”; and

21 (B) by inserting at the end the following:

22 “(b) All of the income in the Foundation, net of oper-  
 23 ating expenses, any contributions to local government pur-  
 24 suant to subsection (a), and reserves determined necessary

1 or appropriate by the Board, shall be provided to or for  
 2 the benefit of the National Park Service.”; and

3 ~~(5) at the end, by inserting the following:~~

4 “SEC. 11. Whoever, without the authorization of the  
 5 Foundation, uses purposes of trade, to induce the sale of  
 6 any good or service, or to promote any commercial activ-  
 7 ity, the name of the Foundation, or any trademark,  
 8 tradename, sign, symbol, emblem, insignia, logo, likeness,  
 9 or slogan referred to in section 3(b), or any facsimile or  
 10 simulation thereof, shall be subject to suit in a civil action  
 11 by the Foundation for the remedies provided in the Act  
 12 of July 5, 1946 (15 U.S.C. 1051 et seq.) and, additionally,  
 13 a civil penalty of \$1,000 for each day of such unauthorized  
 14 use.”.

15 *That the Act of December 18, 1967 (U.S.C. 19e–19n), enti-*  
 16 *tled “An Act to establish the National Park Foundation”,*  
 17 *is amended:*

18 (1) *in section 1—*

19 (A) *by striking “therein” and inserting in*  
 20 *lieu thereof “therein, and to develop and imple-*  
 21 *ment means of securing funds from the private*  
 22 *sector, to enhance funding for the National Park*  
 23 *System without supplanting appropriated funds*  
 24 *otherwise available for the National Park Sys-*  
 25 *tem,”; and*

1                   (B) by striking “to accept and administer  
2                   such gifts”;

3                   (2) in section 3—

4                   (A) by inserting “(a)” after “SEC. 3.”; and

5                   (B) by inserting at the end:

6                   “(b)(1) In furtherance of the purposes of this Act, the  
7                   Foundation shall have exclusive authority to license or au-  
8                   thorize persons to use such trademarks, tradenames, signs,  
9                   symbols, emblems, insignia, logos, likenesses, or slogans that  
10                  are or may be in the future adopted and owned by the  
11                  Foundation, and for which the Foundation has filed an ap-  
12                  plication or applications with the United States Patent and  
13                  Trademark Office, for the purposes of representing, promot-  
14                  ing or advertising for commercial purposes or pecuniary  
15                  gain that an individual, company, or particular good or  
16                  service is an official sponsor or official supporter of the Na-  
17                  tional Park System or National Park Service.

18                  “(2) The authority provided in paragraph (1) shall be  
19                  subject to the following conditions:

20                         “(A) The criteria and guidelines for the competi-  
21                         tive issuance and the maintenance of a license or au-  
22                         thorization, and the issuance of each license or au-  
23                         thorization, shall be subject to the prior written ap-  
24                         proval of the Secretary as being appropriate to the  
25                         image of the National Park System and consistent

1       *with the management policies and practices of the*  
2       *National Park Service, and such approval authority*  
3       *may not be delegated.*

4               “(B) *Neither the Secretary of the Interior, the*  
5       *Foundation, nor any other person may authorize an*  
6       *individual, company, or particular good or service to*  
7       *represent, promote, or advertise, and no person may*  
8       *represent or imply, for commercial purposes or for pe-*  
9       *cuniary gain that it is an official sponsor or official*  
10       *supporter of any individual unit of the National Park*  
11       *System.*

12               “(C) *The advertisements and promotional activi-*  
13       *ties undertaken by a licensee or authorized person*  
14       *shall be appropriate to the image of the National*  
15       *Park System and consistent with the management*  
16       *policies and practices of the National Park Service.*

17               “(D) *Neither the Secretary of the Interior, the*  
18       *Foundation, nor any other person may authorize an*  
19       *individual, company, or particular good or service to*  
20       *represent that it is endorsed by the National Park*  
21       *Service.*

22               “(E) *Nothing in this Act shall in any way re-*  
23       *strict or preclude the Statue of Liberty—Ellis Island*  
24       *Foundation, Inc. (the ‘Statue of Liberty Founda-*  
25       *tion’), so long as its activities are authorized by a*

1        *Memorandum of Agreement with the Secretary of the*  
2        *Interior, from raising donations for the restoration of*  
3        *the Statue of Liberty and Ellis Island by, among*  
4        *other things, offering to any third parties exclusive*  
5        *rights to any trademark, tradename, sign, symbol, in-*  
6        *signia, emblem, logo, likeness, or slogan owned by the*  
7        *Statue of Liberty Foundation.*

8                *“(F) Activities of the Foundation undertaken*  
9        *pursuant to this Act, including the licensing or au-*  
10        *thorizing of official sponsors and official supporters of*  
11        *the National Park System or National Park Service*  
12        *by the Foundation, shall not preclude charitable orga-*  
13        *nizations or cooperating associations from conducting*  
14        *fundraising activities or selling merchandise to gen-*  
15        *erate support for a unit or units of the National Park*  
16        *System or the National Park Service, so long as such*  
17        *activities do not convey a right to be considered as an*  
18        *official sponsor or official supporter of such unit or*  
19        *units as prohibited by subparagraph (B) or of the Na-*  
20        *tional Park System or National Park Service.*

21                *“(c) No license or authorization referred to in sub-*  
22        *section (b) shall grant any person any right or authority*  
23        *to market, advertise, display, sell, or promote, any goods,*  
24        *products or services in any unit of the National Park Sys-*  
25        *tem or in any related facility operated outside the bound-*

1 aries of any unit, or to advertise or promote that it is an  
2 official sponsor or official supporter within the meaning of  
3 subsection (b) in any such unit or related facility: Provided,  
4 That the Secretary of the Interior may authorize limited  
5 recognition of official sponsors or official supporters within  
6 the meaning of subsection (b) in units of the National Park  
7 System or any related facility operated outside the bound-  
8 aries of any unit but only under such appropriate policies  
9 and procedures which ensure that status as an official spon-  
10 sor or official supporter within the meaning of subsection  
11 (b) shall not be commercially exploited in any manner  
12 within any such unit or related facility.”;

13 (3) in section 4—

14 (A) by inserting “and section 8(b)” between  
15 “transfer” and the comma;

16 (B) by inserting “license,” between “lease,”  
17 and “invest”; and

18 (C) by striking “any business, nor shall the  
19 Foundation” and inserting in lieu thereof “busi-  
20 ness for pecuniary profit or gain, except for the  
21 purposes set forth in this Act; operate any com-  
22 mercial establishment or enterprise within any  
23 unit of the National Park System; engage in any  
24 lobbying activities as defined in section 3(7) of  
25 the Lobbying Disclosure Act of 1995 (2 U.S.C.

1           1602(7)) concerning the management of the Na-  
2           tional Park System; or”;

3           (4) in section 8—

4                   (A) by inserting “(a)” after “SEC. 8.”; and

5                   (B) by inserting at the end:

6           “(b) All of the income in the Foundation, net of reason-  
7           able operating expenses, any contributions to local govern-  
8           ment pursuant to subsection (a), and reserves determined  
9           necessary or appropriate by the Board, shall be provided  
10          to or for the benefit of the National Park Service: Provided,  
11          That all such net income derived from the licenses and au-  
12          thorizations referred to in section 3(b) shall be expended in  
13          accordance with policies and priorities of the National Park  
14          Service on programs, projects, or activities that benefit the  
15          National Park System or National Park Service as identi-  
16          fied by the Secretary in consultation with the Foundation.”;

17          (5) in section 10—

18                   (A) by inserting “(a)” after “SEC. 10.”; and

19                   (B) by inserting at the end:

20          “(b) Within 30 days of the execution of each license  
21          or authorization referred to in section 3(b), the Foundation  
22          shall transmit a copy thereof to the Committee on Resources  
23          of the United States House of Representatives and the Com-  
24          mittee on Energy and Natural Resources of the United  
25          States Senate.

1       “(c) No later than 5 years after the date of enactment  
2 of this subsection, the Secretary of the Interior shall submit  
3 to the Committee on Resources of the House of Representa-  
4 tives and the Committee on Energy and Natural Resources  
5 of the United States Senate a report assessing the cost, effec-  
6 tiveness, and effects of the licensing and authorization pro-  
7 gram established pursuant to section 3(b). The report shall  
8 include, but not be limited to, assessments of the effect of  
9 such program on—

10               “(1) visitation levels in the National Park Sys-  
11 tem;

12               “(2) the image of the National Park System;

13               “(3) achievement of the needs and priorities of  
14 the National Park Service;

15               “(4) appropriations for the National Park Sys-  
16 tem; and

17               “(5) the costs of the Foundation and the Sec-  
18 retary of the Interior to administer the program.”;

19       and

20               (6) at the end, by inserting:

21       “SEC. 11. Whoever, without the authorization of the  
22 Foundation, uses for purposes of trade, to induce the sale  
23 of any good or service, to promote any commercial activity,  
24 or for other commercial purpose the name of the Foundation  
25 or any trademark, tradename, sign, symbol, emblem, insig-

1 *nia, logo, likeness, or slogan referred to in section 3(b)(1),*  
2 *or any facsimile or simulation thereof tending to cause con-*  
3 *fusion, to cause mistake, to deceive, or to suggest falsely that*  
4 *an individual, company, or particular good or service is*  
5 *an official sponsor or official supporter of the National*  
6 *Park System or National Park Service, shall be subject to*  
7 *suit in a civil action by the Foundation for the remedies*  
8 *provided in the Act of July 5, 1946, 60 Stat. 427 (15 U.S.C.*  
9 *sec. 1051 et seq.).*

10       “*SEC. 12. Section 1 of Public Law 88–504 (36 U.S.C.*  
11 *1101), as amended, is further amended by adding at the*  
12 *end, ‘(78) The National Park Foundation’.*”