

Calendar No. 590

111TH CONGRESS
2^D SESSION

S. 607

[Report No. 111-304]

To amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2009

Mr. UDALL of Colorado (for himself, Mr. BENNET, Mr. BARRASSO, Mrs. SHAHEEN, Mrs. FEINSTEIN, Mr. ENSIGN, Mr. RISCH, Mr. SANDERS, Mr. REID, Mr. ENZI, Mr. LEAHY, Ms. STABENOW, Mr. GREGG, Mr. BENNETT, Ms. CANTWELL, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 27, 2010

Reported by Mr. BINGAMAN, with an amendment and an amendment to the title

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

A BILL

To amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes.

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 “Ski Area Recreational
5 Opportunity Enhancement Act of 2009”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) it is in the national interest to provide, and
9 encourage citizens of the United States to take ad-
10 vantage of, opportunities during all 4 seasons to en-
11 gage in outdoor recreational activities that could
12 contribute to the health and well-being of the citi-
13 zens of the United States;

14 (2) as of 2009, under Federal law (including
15 regulations), National Forest System land has been
16 managed in ways that—

17 (A) encourage understanding and apprecia-
18 tion of nature and the importance of conserving
19 natural resources; and

20 (B) provide year-round opportunities for
21 natural resource-based, outdoor-developed rec-
22 reational activities outside of urban settings;

23 (3) by increasing the extent to which National
24 Forest System land is managed to provide opportu-
25 nities for outdoor recreational activities; more citi-

1 zens of the United States may gain the opportunity
2 to engage in such activities;

3 (4) National Forest System land that is used
4 for skiing and other snow-sports can provide addi-
5 tional opportunities for seasonal and year-round rec-
6 reational activities, which promotes jobs and en-
7 hances the economy of local communities that serve
8 these areas as well as the State and the United
9 States;

10 (5) the authorization of increased use of certain
11 National Forest System land for seasonal and year-
12 round recreational activities and associated facilities
13 can reduce the impact of such activities and facilities
14 on other National Forest System land; and

15 (6) it is desirable to amend the National Forest
16 Ski Area Permit Act of 1986 (16 U.S.C. 497b)—

17 (A) to enable snow-sports (other than nor-
18 die and alpine skiing) to be permitted on Na-
19 tional Forest System land, subject to ski area
20 permits issued by the Secretary of Agriculture
21 (referred to in this Act as the “Secretary”)
22 under section 3 of the National Forest Ski Area
23 Permit Act of 1986 (16 U.S.C. 497b); and

24 (B) to clarify the authority of the Sec-
25 retary to permit appropriate additional seasonal

1 or year-round recreational activities and facili-
2 ties on National Forest System land, subject to
3 ski area permits issued by the Secretary under
4 section 3 of the National Forest Ski Area Per-
5 mit Act of 1986 (16 U.S.C. 497b).

6 (b) PURPOSE.—The purpose of this Act is to amend
7 the National Forest Ski Area Permit Act of 1986 (16
8 U.S.C. 497b)—

9 (1) to enable snow-sports (other than nordic
10 and alpine skiing) to be permitted on National For-
11 est System land, subject to ski area permits issued
12 by the Secretary under section 3 of the National
13 Forest Ski Area Permit Act of 1986 (16 U.S.C.
14 497b); and

15 (2) to clarify the authority of the Secretary to
16 permit appropriate additional seasonal or year-round
17 recreational activities and facilities on National For-
18 est System land, subject to ski area permits issued
19 by the Secretary under section 3 of the National
20 Forest Ski Area Permit Act of 1986 (16 U.S.C.
21 497b).

22 **SEC. 3. SKI AREA PERMITS.**

23 Section 3 of the National Forest Ski Area Permit Act
24 of 1986 (16 U.S.C. 497b) is amended—

1 (1) in subsection (a), by striking “nordic and
2 alpine ski areas and facilities” and inserting “ski
3 areas and associated facilities”;

4 (2) in subsection (b), in the matter preceding
5 paragraph (1), by striking “nordic and alpine skiing
6 operations and purposes” and inserting “skiing and
7 other snow-sports and such other seasonal or year-
8 round recreational activities associated with moun-
9 tain resorts as the Secretary may authorize pursuant
10 to subsection (e)”;

11 (3) by redesignating subsections (e) and (d) as
12 subsections (d) and (e), respectively;

13 (4) by inserting after subsection (b) the fol-
14 lowing:

15 “(e) OTHER RECREATIONAL USES.—

16 “(1) AUTHORITY OF SECRETARY.—Subject to
17 paragraphs (2) and (3), the Secretary may authorize
18 the holder of a ski area permit issued pursuant to
19 subsection (b) to provide on National Forest System
20 land subject to the ski area permit such other sea-
21 sonal or year-round natural resource-based, outdoor-
22 developed recreational activities and associated facili-
23 ties (in addition to skiing and other snow-sports) as
24 the Secretary determines to be appropriate.

1 “(2) REQUIREMENT OF ACTIVITIES AND FACILI-
2 TIES.—Each activity and facility authorized by the
3 Secretary under paragraph (1) shall—

4 “(A) encourage outdoor recreation;

5 “(B) to the extent practicable, harmonize
6 with the natural environment of the National
7 Forest System land on which the activity or fa-
8 cility is located; and

9 “(C) be subject to such terms and condi-
10 tions as the Secretary determines to be appro-
11 priate.

12 “(3) LIMITATION.—The Secretary may not au-
13 thorize any activity or facility under paragraph (1)
14 if the Secretary determines that the authorization of
15 the activity or facility would result in the primary
16 recreational purpose of a National Forest System
17 land that is subject to a ski area permit to be a pur-
18 pose other than skiing or any other snow-sport.”;
19 and

20 (5) in subsection (d) (as redesignated by para-
21 graph (3))—

22 (A) by striking “Within one year after the
23 date of enactment of this Act, the”²² and insert-
24 ing “Not later than 1 year after the date of en-

1 actment of the Ski Area Recreational Oppor-
2 tunity Enhancement Act of 2009, the”]; and
3 (B) by striking “within 3 years of the date
4 of enactment of this Act”.

5 **SEC. 4. EFFECT.**

6 Nothing in this Act (including an amendment made
7 by this Act) affects any authority of the Secretary (includ-
8 ing the authority of the Secretary with respect to rec-
9 reational activities or facilities located on National Forest
10 System land) under any Federal law (including regula-
11 tions) other than the National Forest Ski Area Permit Act
12 of 1986 (16 U.S.C. 497b).

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “Ski Area Recreational*
15 *Opportunity Enhancement Act of 2010”.*

16 **SEC. 2. PURPOSE.**

17 *The purpose of this Act is to amend the National For-*
18 *est Ski Area Permit Act of 1986 (16 U.S.C. 497b)—*

19 (1) *to enable snow-sports (other than nordic and*
20 *alpine skiing) to be permitted on National Forest*
21 *System land, subject to ski area permits issued by the*
22 *Secretary of Agriculture under section 3 of the Na-*
23 *tional Forest Ski Area Permit Act of 1986 (16 U.S.C.*
24 *497b); and*

1 (2) to clarify the authority of the Secretary of
2 Agriculture to permit appropriate additional seasonal
3 or year-round recreational activities and facilities on
4 National Forest System land, subject to ski area per-
5 mits issued by the Secretary of Agriculture under sec-
6 tion 3 of the National Forest Ski Area Permit Act of
7 1986 (16 U.S.C. 497b).

8 **SEC. 3. SKI AREA PERMITS.**

9 Section 3 of the National Forest Ski Area Permit Act
10 of 1986 (16 U.S.C. 497b) is amended—

11 (1) in subsection (a), by striking “nordic and al-
12 pine ski areas and facilities” and inserting “ski areas
13 and associated facilities”;

14 (2) in subsection (b), in the matter preceding
15 paragraph (1), by striking “nordic and alpine skiing
16 operations and purposes” and inserting “skiing and
17 other snow sports and recreational uses authorized by
18 this Act”;

19 (3) by redesignating subsections (c) and (d) as
20 subsections (d) and (e), respectively;

21 (4) by inserting after subsection (b) the fol-
22 lowing:

23 “(c) OTHER RECREATIONAL USES.—

24 “(1) AUTHORITY OF SECRETARY.—Subject to the
25 terms of a ski area permit issued pursuant to sub-

1 *section (b), the Secretary may authorize a ski area*
2 *permittee to provide such other seasonal or year-*
3 *round natural resource-based recreational activities*
4 *and associated facilities (in addition to skiing and*
5 *other snow-sports) on National Forest System land*
6 *subject to a ski area permit as the Secretary deter-*
7 *mines to be appropriate.*

8 *“(2) REQUIREMENTS.—Each activity and facil-*
9 *ity authorized by the Secretary under paragraph (1)*
10 *shall—*

11 *“(A) encourage outdoor recreation and en-*
12 *joyment of nature;*

13 *“(B) to the extent practicable—*

14 *“(i) harmonize with the natural envi-*
15 *ronment of the National Forest System land*
16 *on which the activity or facility is located;*
17 *and*

18 *“(ii) be located within the developed*
19 *portions of the ski area;*

20 *“(C) be subject to such terms and conditions*
21 *as the Secretary determines to be appropriate;*
22 *and*

23 *“(D) be authorized in accordance with—*

24 *“(i) the applicable land and resource*
25 *management plan; and*

1 “(ii) applicable laws (including regu-
2 lations).

3 “(3) *INCLUSIONS.*—Activities and facilities that
4 may, in appropriate circumstances, be authorized
5 under paragraph (1) include—

6 “(A) zip lines;

7 “(B) mountain bike terrain parks and
8 trails;

9 “(C) frisbee golf courses; and

10 “(D) ropes courses.

11 “(4) *EXCLUSIONS.*—Activities and facilities that
12 are prohibited under paragraph (1) include—

13 “(A) tennis courts;

14 “(B) water slides and water parks;

15 “(C) swimming pools;

16 “(D) golf courses; and

17 “(E) amusement parks.

18 “(5) *LIMITATION.*—The Secretary may not au-
19 thorize any activity or facility under paragraph (1)
20 if the Secretary determines that the authorization of
21 the activity or facility would result in the primary
22 recreational purpose of the ski area permit to be a
23 purpose other than skiing and other snow-sports.

24 “(6) *BOUNDARY DETERMINATION.*—In deter-
25 mining the acreage encompassed by a ski area permit

1 *under subsection (b)(3), the Secretary shall not con-*
2 *sider the acreage necessary for activities and facilities*
3 *authorized under paragraph (1).*

4 *“(7) EFFECT ON EXISTING AUTHORIZED ACTIVI-*
5 *TIES AND FACILITIES.—Nothing in this subsection af-*
6 *fects any activity or facility authorized by a ski area*
7 *permit in effect on the date of enactment of this sub-*
8 *section during the term of the permit.”;*

9 *(5) by striking subsection (d) (as redesignated by*
10 *paragraph (3)), and inserting the following:*

11 *“(d) REGULATIONS.—Not later than 2 years after the*
12 *date of enactment of this subsection, the Secretary shall pro-*
13 *mulgate regulations to implement this section.”; and*

14 *(6) in subsection (e) (as redesignated by para-*
15 *graph (3)), by striking “the National Environmental*
16 *Policy Act, or the Forest and Rangelands Renewable*
17 *Resources Planning Act as amended by the National*
18 *Forest Management Act” and inserting “the National*
19 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*
20 *seq.) and the Forest and Rangeland Renewable Re-*
21 *sources Planning Act of 1974 (16 U.S.C. 1600 et*
22 *seq.)”.*

23 **SEC. 4. EFFECT.**

24 *Nothing in the amendments made by this Act estab-*
25 *lishes a legal preference for the holder of a ski area permit*

1 *to provide activities and associated facilities authorized by*
2 *section 3(c) of the National Forest Ski Area Permit Act of*
3 *1986 (16 U.S.C. 497b(c)) (as amended by section 3).*

Amend the title so as to read: “A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that is subject to ski area permits, and for other purposes.”

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