

CONFERENCE CS FOR HOUSE BILL NO. 260

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SPECIAL SESSION

BY THE CONFERENCE COMMITTEE

Offered: 6/9/01

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to marine passenger vessels; and providing for an effective date."**

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

3 * **Section 1.** AS 46.03 is amended by adding new sections to read:

4 **Article 6A. Commercial Passenger Vessel Environmental Compliance Program.**

5 **Sec. 46.03.460. Program established.** (a) There is established the
6 commercial passenger vessel environmental compliance program providing for

7 (1) terms and conditions of vessel discharges;
8 (2) independent verification of environmental compliance; and
9 (3) allowing the department to monitor and supervise discharges from
10 commercial passenger vessels through a registration system.

11 (b) The department may adopt regulations to carry out the purposes of
12 AS 46.03.460 - 46.03.490. The department shall use negotiated regulation making
13 under AS 44.62.710 - 44.62.800, when appropriate, to develop those regulations.

14 **Sec. 46.03.461. Registration requirements.** (a) Except as provided in
15 AS 46.03.487, each calendar year in which the owner or operator of a commercial

1 passenger vessel intends to operate, or cause or allow to be operated, the vessel in the
2 marine waters of the state, the owner or operator of the vessel shall register with the
3 department. The registration shall be completed before the time any commercial
4 passenger vessel of the owner or operator enters the marine waters of the state in that
5 calendar year. The registration must include the following information:

6 (1) the vessel owner's business name and, if different, the vessel
7 operator's business name for each commercial passenger vessel of the owner or
8 operator that is scheduled to be in the marine waters of the state during the calendar
9 year;

10 (2) the postal address, electronic mail address, telephone number, and
11 facsimile number for the principal place of each business identified under (1) of this
12 subsection;

13 (3) the name and address of an agent for service of process for each
14 business identified under (1) of this subsection; the owner and operator shall
15 continuously maintain a designated agent for service of process whenever a
16 commercial passenger vessel of the owner or operator is in the marine waters of the
17 state, and the agent must be an individual resident of this state, a domestic corporation,
18 or a foreign corporation having a place of business in and authorized to do business in
19 this state;

20 (4) the name or call sign of and Port of Registry for each of the owner's
21 or operator's vessels that is scheduled either to call upon a port in this state or
22 otherwise to be in the marine waters of the state during the calendar year and after the
23 date of registration; and

24 (5) an agreement to comply with the terms and conditions of vessel
25 discharges specified under AS 46.03.462.

26 (b) Registration under (a) of this section shall be executed under oath by the
27 owner or operator.

28 (c) Upon request of the department, the registrant shall submit registration
29 information required under this section electronically.

30 **Sec. 46.03.462. Terms and conditions of discharges.** (a) An owner or
31 operator required to register under AS 46.03.461 shall comply with either the standard

1 terms and conditions of vessel discharges specified in (b) of this section or the
2 alternative terms and conditions of vessel discharges specified in (c) of this section.

3 (b) The standard terms and conditions of vessel discharges are that the owner
4 or operator

5 (1) may not discharge untreated sewage, treated sewage, graywater, or
6 other wastewater in a manner that violates AS 46.03.463;

7 (2) shall maintain records and provide the reports required under
8 AS 46.03.465(a);

9 (3) shall collect and test samples as required under AS 46.03.465(b)
10 and (d) and provide the reports with respect to those samples required by
11 AS 46.03.475(c);

12 (4) shall report discharges in accordance with AS 46.03.475(a);

13 (5) shall allow the department access to the vessel at the time samples
14 are taken under AS 46.03.465 for purposes of taking the samples or for purposes of
15 verifying the integrity of the sampling process; and

16 (6) shall submit records, notices, and reports to the department in
17 accordance with AS 46.03.475(b), (d), and (e).

18 (c) The department may establish alternative terms and conditions of vessel
19 discharges applicable to an owner or operator of a vessel who cannot practicably
20 comply with the standard terms and conditions of vessel discharges under (b) of this
21 section, or who wishes to use or test alternative environmental protection equipment or
22 procedures. Except as specified in alternative terms and conditions set by the
23 department under this subsection, the alternative terms and conditions of vessel
24 discharges must require compliance with the standard terms and conditions of vessel
25 discharges under (b) of this section. The department, on a case-by-case basis, may set
26 alternative terms and conditions of vessel discharges if

27 (1) the vessel owner or operator demonstrates to the department's
28 reasonable satisfaction that equivalent environmental protection can be attained
29 through other terms or conditions appropriate for the specific configuration or
30 operation of the vessel;

31 (2) the vessel owner or operator agrees to make necessary changes to

1 the vessel to allow it to comply with the standard terms and conditions of vessel
2 discharges under (b) of this section but demonstrates to the department's reasonable
3 satisfaction that additional time is needed to make the necessary changes; or

4 (3) an experimental technology or method for pollution control of a
5 discharge is being used or is proposed as one of the alternative terms and conditions of
6 vessel discharges and the department determines that the experimental technology or
7 method has a reasonable likelihood of success in providing increased protection for
8 the environment.

9 (d) Alternative terms and conditions of vessel discharges approved by the
10 department under (c) of this section may, if determined appropriate by the department,
11 include a waiver by the department of portions of the requirements of AS 46.03.463
12 and 46.03.465, for the time period that the department determines to be appropriate.

13 **Sec. 46.03.463. Prohibited discharges; limitations on discharges.** (a)
14 Except as provided in (g) of this section, a person may not discharge untreated sewage
15 from a commercial passenger vessel into the marine waters of the state.

16 (b) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a
17 person may not discharge sewage from a commercial passenger vessel into the marine
18 waters of the state that has suspended solids greater than 150 milligrams per liter or a
19 fecal coliform count greater than 200 colonies per 100 milliliters except that the
20 department may by regulation adopt a protocol for retesting for fecal coliform, if this
21 discharge limit for fecal coliform is exceeded, under which a discharger will be
22 considered to be in compliance with the fecal coliform limit, if the geometric mean of
23 fecal coliform count in the samples considered under the protocol does not exceed 200
24 colonies per 100 milliliters. Upon submission by the owner or operator of a small
25 commercial passenger vessel of a plan for interim protective measures, the department
26 shall extend the time for compliance of that vessel with this subsection.

27 (c) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a
28 person may not discharge graywater or other wastewater from a commercial passenger
29 vessel into the marine waters of the state that has suspended solids greater than 150
30 milligrams per liter or a fecal coliform count greater than 200 colonies per 100
31 milliliters except that the department may by regulation adopt a protocol for retesting

1 for fecal coliform, if this discharge limit for fecal coliform is exceeded, under which a
2 discharger will be considered to be in compliance with the fecal coliform limit, if the
3 geometric mean of fecal coliform count in the samples considered under the protocol
4 does not exceed 200 colonies per 100 milliliters. Upon submission by the owner or
5 operator of a large commercial passenger vessel of a plan for interim protective
6 measures, the department shall extend the time for compliance of that vessel with this
7 subsection for a period of time that ends not later than January 1, 2003. Upon
8 submission by the owner or operator of a small commercial passenger vessel of a plan
9 for interim protective measures, the department shall extend the time for compliance
10 of that vessel with this subsection.

11 (d) The department may by regulation establish numeric or narrative standards
12 for other parameters for treated sewage, graywater, and other wastewater discharged
13 from commercial passenger vessels. In developing regulations under this subsection,
14 the department shall consider the best available scientific information on the
15 environmental effects of the regulated discharges, the materials and substances
16 handled on the vessels, vessel movement effects, and the availability of new
17 technologies for wastewater.

18 (e) Except as provided in (f) and (h) of this section or under AS 46.03.462(c) -
19 (d), a person may not discharge any treated sewage, graywater, or other wastewater
20 from a large commercial passenger vessel into the marine waters of the state unless

21 (1) the vessel is underway and proceeding at a speed of not less than
22 six knots;

23 (2) the vessel is at least one nautical mile from the nearest shore,
24 except in areas designated by the department;

25 (3) the discharge complies with all applicable vessel effluent standards
26 established under the federal cruise ship legislation and any other applicable law; the
27 standards under the federal cruise ship legislation and other applicable law may be
28 adopted by regulation by the department; and

29 (4) the vessel is not in an area where the discharge of treated sewage,
30 graywater, or other wastewater is prohibited.

31 (f) Except as provided in (h) of this section, a person may not discharge

1 sewage from a small commercial passenger vessel unless the sewage has been
 2 processed through a properly operated and properly maintained marine sanitation
 3 device.

4 (g) The provisions of (e)(1) and (e)(2) of this section do not apply to a
 5 discharge permitted under sec. 1404(b) or (c) of the federal cruise ship legislation.

6 (h) The provisions of (a) - (e) of this section do not apply to discharges made
 7 for the purpose of securing the safety of the commercial passenger vessel or saving
 8 life at sea if all reasonable precautions have been taken for the purpose of preventing
 9 or minimizing the discharge.

10 **Sec. 46.03.465. Information-gathering requirements.** (a) Except as
 11 provided under AS 46.03.462(c) - (d), the owner or operator of a commercial
 12 passenger vessel shall maintain records and, upon request of the department, provide
 13 to the department a report, with copies of the records related to the period of operation
 14 in the marine waters of the state, detailing the dates, times, and locations, and the
 15 volumes or flow-rates of any discharge of sewage, graywater, or other wastewater into
 16 the marine waters of the state.

17 (b) Except as provided under AS 46.03.462(c) - (d), while a commercial
 18 passenger vessel is present in the marine waters of the state, the owner or operator of
 19 the vessel shall collect routine samples of the vessel's treated sewage, graywater, and
 20 other wastewater that are being discharged into the marine waters of the state with a
 21 sampling technique approved by the department before the sample is collected. The
 22 number of routine samples for each vessel to be collected under this subsection shall
 23 be the greater of two per calendar year or the number of samples required to be
 24 collected under federal statutes and regulations for sewage, graywater, or other
 25 wastewater discharges.

26 (c) Except as provided under AS 46.03.462(c) - (d), while a commercial
 27 passenger vessel is present in the marine waters of the state, the department, or an
 28 independent contractor retained by the department, may collect additional samples of
 29 the vessel's treated sewage, graywater, and other wastewater that are being discharged
 30 into the marine waters of the state.

31 (d) Except as provided under AS 46.03.462(c) - (d), the owner or operator of a

1 vessel required to collect samples under (b) of this section shall have the samples
2 tested to measure fecal coliform, ammonia, residual chlorine, pH (degree of acidity or
3 alkalinity), chemical oxygen demand (COD), biochemical oxygen demand (BOD),
4 total suspended solids, and other parameters as required by the department in the
5 samples with an analytical testing method that was approved by the department before
6 the testing is conducted. A laboratory used for testing under this subsection shall
7 agree not to disclose the testing results to any person other than to the department, the
8 United States Coast Guard, or the owner or operator of the vessel.

9 (e) The owner or operator of a commercial passenger vessel shall pay for all
10 routine sampling under (b) of this section and the testing of routine samples. The
11 department shall pay for all additional sampling under (c) of this section and the
12 testing of the additional samples.

13 (f) If the owner or operator of a commercial passenger vessel has, when
14 complying with another state or federal law that requires substantially equivalent
15 information gathering, gathered the type of information required under (a), (b), or (d)
16 of this section, the owner or operator shall be considered to be in compliance with that
17 subsection so long as the information is also provided to the department.

18 **Sec. 46.03.470. Record keeping requirements.** An owner or operator
19 subject to AS 46.03.465 shall record the information required to be gathered under that
20 section and shall maintain the records for three years after the date the information
21 was gathered.

22 **Sec. 46.03.475. Reporting requirements.** (a) An owner or operator of a
23 commercial passenger vessel who becomes aware of a discharge in violation of
24 AS 46.03.463 shall immediately report that discharge to the department. There is no
25 audit report privilege under AS 09.25.450 for this information.

26 (b) If the owner or operator of a commercial passenger vessel operating in the
27 marine waters of the state is required by the Administrator of the Environmental
28 Protection Agency or the secretary of the federal department in which the United
29 States Coast Guard is operating to collect samples and test sewage, graywater, or other
30 wastewater and keep records of the sampling and testing, the owner or operator shall,
31 within 21 days after the sewage, graywater, or other wastewater is tested, submit to the

1 department a copy of the records.

2 (c) Within 21 days after the testing required under AS 46.03.465(d), the owner
3 or operator shall submit a written report to the department that contains the
4 measurements required under AS 46.03.465(d) and describes the sampling technique
5 and analytical testing methods used. The information in the report required under this
6 subsection may be provided by referring to, and including copies of, other reports that
7 are required by substantially equivalent state or federal reporting requirements.

8 (d) If the owner or operator of a commercial passenger vessel operating in the
9 marine waters of the state is required by the laws of the United States or by the laws
10 of Canada or of a province or territory of Canada to file a report or provide notice of a
11 discharge or offloading of a hazardous waste, as defined in AS 46.03.900, or of a
12 hazardous substance, as defined in AS 46.03.826, that was generated, discharged, or
13 offloaded while the vessel was operating in the marine waters of the state, the owner
14 or operator shall submit to the department a copy of the report or notice within 21 days
15 after having provided the report or notice to an agency of the government of the
16 United States or to an agency of the government of Canada or of a province or
17 territory of Canada.

18 (e) Before the operation of a commercial passenger vessel in the marine
19 waters of the state, the owner or operator of the vessel shall provide to the department
20 a plan that describes the vessel's policies and procedures for

21 (1) offloading in this state or disposing into the marine waters of the
22 state of nonhazardous solid waste other than sewage; and

23 (2) offloading of hazardous waste or a hazardous substance from the
24 vessel while it is operating in the marine waters of the state to the extent that the
25 offloading is not covered by (d) of this section.

26 (f) Upon request of the department, the information required under this section
27 shall be submitted electronically.

28 (g) This section does not relieve the owner or operator of a commercial
29 passenger vessel from other applicable reporting requirements of state or federal law.

30 **Sec. 46.03.480. Fees.** (a) There is imposed an environmental compliance fee
31 on each commercial passenger vessel operating in the marine waters of the state.

(b) The fee imposed by (a) of this section for all commercial passenger vessels, other than vessels operated by the state, is a separate fee for each voyage during which the commercial passenger vessel operates in the marine waters of the state. The fee shall range from \$.70 to \$1.75 per berth, based on the overnight accommodation capacity of the vessel, determined with reference to the number of lower berths, according to the following categories:

(1) \$75 for a commercial passenger vessel with overnight accommodations for at least 50 but not more than 99 passengers for hire;

(2) \$175 for a commercial passenger vessel with overnight accommodations for at least 100 but not more than 249 passengers for hire;

(3) \$375 for a commercial passenger vessel with overnight accommodations for at least 250 but not more than 499 passengers for hire;

(4) \$750 for a commercial passenger vessel with overnight accommodations for at least 500 but not more than 999 passengers for hire;

(5) \$1,250 for a commercial passenger vessel with overnight accommodations for at least 1,000 but not more than 1,499 passengers for hire;

(6) \$1,750 for a commercial passenger vessel with overnight accommodations for at least 1,500 but not more than 1,999 passengers for hire;

(7) \$2,250 for a commercial passenger vessel with overnight accommodations for at least 2,000 but not more than 2,499 passengers for hire;

(8) \$2,750 for a commercial passenger vessel with overnight accommodations for at least 2,500 but not more than 2,999 passengers for hire;

(9) \$3,250 for a commercial passenger vessel with overnight accommodations for at least 3,000 but not more than 3,499 passengers for hire;

(10) \$3,750 for each commercial passenger vessel with overnight accommodations for 3,500 or more passengers for hire.

(c) The fee imposed by (a) of this section for a commercial passenger vessel that is operated by this state shall be determined by agreement between the commissioner of environmental conservation and the commissioner of transportation and public facilities.

(d) A commercial passenger vessel operating in the marine waters of the state

1 is liable for the fee imposed by this section. The fee is due and payable to the
2 department in the manner and at the times required by the department by regulation.

3 **Sec. 46.03.482. Commercial passenger vessel environmental compliance**
4 **fund.** (a) The commercial passenger vessel environmental compliance fund is created
5 in the general fund.

6 (b) The fund consists of the following, all of which shall be deposited in the
7 fund upon receipt:

8 (1) money received by the department in payment of fees under
9 AS 46.03.480;

10 (2) money received under AS 46.03.760(e) as a result of a violation
11 related to AS 46.03.460 - 46.03.490 unless the money would otherwise be deposited in
12 the oil and hazardous substance release prevention and response fund established by
13 AS 46.08.010;

14 (3) money appropriated to the fund by the legislature;

15 (4) earnings on the fund.

16 (c) The legislature may make appropriations from the fund to the department
17 to pay for the department's operational costs necessary to prepare reports that assess
18 the information received by the department for the cruise ship seasons of 2000, 2001,
19 2002, and 2003 and for the department's operational costs necessary to carry out
20 activities under AS 46.03.460 - 46.03.490 relating to commercial passenger vessels.

21 (d) The unexpended and unobligated balance of an appropriation made from
22 the fund to the department for the purposes described in (c) of this section lapses into
23 the fund on December 31 following the end of the period for which the appropriation
24 was made.

25 (e) Nothing in this section creates a dedicated fund.

26 **Sec. 46.03.485. Recognition program.** The department may engage in
27 efforts to encourage and recognize superior environmental protection efforts made by
28 the owners or operators of commercial passenger vessels that exceed the requirements
29 established by law.

30 **Sec. 46.03.487. Exemption for vessels in innocent passage.** AS 46.03.460 -
31 46.03.490 do not apply to a commercial passenger vessel that operates in the marine

1 waters of the state solely in innocent passage. For purposes of this section, a vessel is
2 engaged in innocent passage if its operation in marine waters of the state, regardless of
3 whether the vessel is a United States or foreign-flag vessel, would constitute innocent
4 passage under the

5 (1) Convention on the Territorial Sea and the Contiguous Zone,
6 April 29, 1958, 15 U.S.T. 1606; or

7 (2) United Nations Convention on the Law of the Sea 1982,
8 December 10, 1982, United Nations Publication No. E.83.V.5, 21 I.L.M. 1261
9 (1982), were the vessel a foreign-flag vessel.

10 **Sec. 46.03.488. Activities of the department.** The department may engage in
11 the following activities relating to commercial passenger vessels operating in the
12 marine waters of the state:

13 (1) direct in-water monitoring of discharges or releases of sewage,
14 graywater, and other wastewater and direct monitoring of the opacity of air emissions
15 from those vessels;

16 (2) monitoring and studying of direct or indirect environmental effects
17 of those vessels; and

18 (3) researching ways to reduce effects of the vessels on marine waters
19 and other coastal resources.

20 **Sec. 46.03.490. Definitions.** In AS 46.03.460 - 46.03.490,

21 (1) "agent for service of process" means an agent upon whom process,
22 notice, or demand required or permitted by law to be served upon the owner or
23 operator may be served;

24 (2) "commercial passenger vessel" means a vessel that carries
25 passengers for hire except that "commercial passenger vessel" does not include a
26 vessel

27 (A) authorized to carry fewer than 50 passengers;

28 (B) that does not provide overnight accommodations for at
29 least 50 passengers for hire, determined with reference to the number of lower
30 berths; or

31 (C) operated by the United States or a foreign government;

(3) "discharge" means any release, however caused, from a commercial passenger vessel, and includes any escape, disposal, spilling, leaking, pumping, emitting, or emptying;

(4) "federal cruise ship legislation" means secs. 1401 - 1414 of H.R. 5666, as incorporated by reference into P.L. 106 - 554;

(5) "fund" means the commercial passenger vessel environmental compliance fund established under AS 46.03.482;

(6) "graywater" means galley, dishwasher, bath, and laundry waste water;

(7) "large commercial passenger vessel" means a commercial passenger vessel that provides overnight accommodations for 250 or more passengers for hire, determined with reference to the number of lower berths;

(8) "marine waters of the state" means all waters within the boundaries of the state together with all of the waters of the Alexander Archipelago even if not within the boundaries of the state:

(9) "offloading" means the removal of a hazardous substance, hazardous waste, or nonhazardous solid waste from a commercial passenger vessel onto or into a controlled storage, processing, or disposal facility or treatment works;

(10) "other wastewater" means graywater or sewage that is stored in or transferred to a ballast tank or other holding area on the vessel that may not be customarily used for storing graywater or sewage;

(11) "passengers for hire" means vessel passengers for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel;

(12) "sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain human body waste:

(13) "small commercial passenger vessel" means a commercial passenger vessel that provides overnight accommodations for 249 or fewer passengers for hire, determined with reference to the number of lower berths;

(14) "treated sewage" means sewage that meets all applicable effluent

1 limitation standards and processing requirements of 33 U. S. C. 1251 - 1376 (Federal
2 Water Pollution Control Act), as amended, the federal cruise ship legislation, and
3 regulations adopted under 33 U.S.C. 1251 - 1376 or under the federal cruise ship
4 legislation;

5 (15) "untreated sewage" means sewage that is not treated sewage;

6 (16) "vessel" means any form or manner of watercraft, other than a
7 seaplane on the water, whether or not capable of self-propulsion;

8 (17) "voyage" means a vessel trip to or from one or more ports of call
9 in the state with the majority of the passengers for hire completing the entire vessel
10 trip; a vessel trip involving stops at more than one port of call is considered a single
11 voyage so long as the majority of passengers for hire complete the entire trip;

12 (18) "waters of the Alexander Archipelago" means all waters under the
13 sovereignty of the United States within or near Southeast Alaska, beginning at a point
14 58 degrees 11 minutes 41 seconds North, 136 degrees 39 minutes 25 seconds West
15 (near Cape Spencer Light), thence southeasterly along a line three nautical miles
16 seaward of the baseline from which the breadth of the territorial sea is measured in the
17 Pacific Ocean and the Dixon Entrance, except where this line intersects geodesics
18 connecting the following five pairs of points: (A) 58 degrees 05 minutes 17 seconds
19 North, 136 degrees 33 minutes 49 seconds West and 58 degrees 11 minutes 41
20 seconds North, 136 degrees 39 minutes 25 seconds West (Cross Sound); (B) 56
21 degrees 09 minutes 40 seconds North, 134 degrees 40 minutes 00 seconds West and
22 55 degrees 49 minutes 15 seconds North, 134 degrees 17 minutes 40 seconds West
23 (Chatham Strait); (C) 55 degrees 49 minutes 15 seconds North, 134 degrees 17
24 minutes 40 seconds West and 55 degrees 50 minutes 30 seconds North, 133 degrees
25 54 minutes 15 seconds West (Sumner Strait); (D) 54 degrees 41 minutes 30 seconds
26 North, 132 degrees 01 minutes 00 seconds West and 54 degrees 51 minutes 30
27 seconds North, 131 degrees 20 minutes 45 seconds West (Clarence Strait); (E) 54
28 degrees 51 minutes 30 seconds North, 131 degrees 20 minutes 45 seconds West and
29 54 degrees 46 minutes 15 seconds North, 130 degrees 52 minutes 00 seconds West
30 (Revillagigedo Channel); the portion of each such geodesic situated beyond three
31 nautical miles from the baseline from which the breadth of the territorial sea is

measured forms the outer limit of the waters of the Alexander Archipelago in those five locations.

* **Sec. 2.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

(XX) receipts described in AS 46.03.482(b)(1) and (2) received

under the commercial passenger vessel environmental compliance program;

* Sec. 3. AS 46.03.760(e) is amended to read:

(e) A person who violates or causes or permits to be violated a provision of **AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475** [AS 46.03.250 - 46.03.314], AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under **AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475**, [AS 46.03.250 - 46.03.314] or AS 46.14 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than \$500 nor more than \$100,000 for the initial violation, nor more than \$10,000 for each day after that on which the violation continues, and that shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, that shall be determined by the court according to the toxicity, degradability and dispersal characteristics of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality; for a violation relating to AS 46.14, the court, in making its determination under this paragraph, shall also consider the degree to which the discharge causes harm to persons or property; **for a violation of AS 46.03.463, the court, in making its determination under this paragraph, shall also consider the volume of the graywater, sewage, or other wastewater discharged;** this paragraph may not be construed to limit the right of parties other than the state to recover for personal injuries or damage to their property;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged; and

(4) the need for an enhanced civil penalty to deter future

noncompliance.

* **Sec. 4.** AS 46.03.790(a) is amended to read:

(a) Except as provided in (d) of this section, a person is guilty of a class A misdemeanor if the person with criminal negligence

(1) violates a provision of this chapter, AS 46.04, AS 46.09, or AS 46.14, a regulation or order of the department, or a permit, approval, or acceptance, or a term or condition of a permit, approval, or acceptance issued under this chapter, AS 46.04, AS 46.09, or AS 46.14;

(2) fails to provide information or provides false information required by AS 46.03.465, 46.03.475, 46.03.755, AS 46.04, or AS 46.09, or by a regulation adopted by the department under AS 46.03.460, 46.03.755 [AS 46.03.755], AS 46.04, or AS 46.09;

(3) makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with **AS 46.03.250 - 46.03.313** [AS 46.03.250 - 46.03.314] applicable to hazardous wastes or a regulation adopted by the department under **AS 46.03.250 - 46.03.313** [AS 46.03.250 - 46.03.314];

(4) makes a false statement, representation, or certification in an application, notice, record, report, permit, or other document filed, maintained, or used for purposes of compliance with AS 46.03.460 - 46.03.475, AS 46.14, or a regulation adopted under **AS 46.03.460** or AS 46.14; or

(5) renders inaccurate a monitoring device or method required to be maintained under AS 46.14, a regulation adopted under AS 46.14, or a permit issued by the department or a local air quality control program under AS 46.14.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY OF REPORTING REQUIREMENTS. (a) Notwithstanding AS 46.03.461(a), enacted by sec. 1 of this Act, the first registration required under AS 46.03.461(a) for the owner or operator of a commercial passenger vessel that is subject to that section and is in the marine waters of the state on July 1, 2001, is 11:59 p.m., Alaska Daylight Time, on July 3, 2001.

(b) The information-gathering and record keeping requirements of AS 46.03.465 and 46.03.470, enacted by sec. 1 of this Act, apply on and after July 1, 2001. The first report that is due under AS 46.03.475(b) - (f), enacted by sec. 1 of this Act, is due August 21, 2001.

4 *** Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: INITIAL IMPLEMENTATION OF FEES. (a) For a commercial
7 passenger vessel voyage occurring on or after July 1, 2001, and before the effective date of
8 regulations adopted by the department under AS 46.03.480, enacted by sec. 1 of this Act,
9 providing for payment of the environmental compliance fee, the environmental compliance
10 fee required by AS 46.03.480, enacted by sec. 2 of this Act, for each voyage during which the
11 commercial passenger vessel is scheduled to operate in marine waters of this state, is due and
12 payable to the department on or before July 31 of the calendar year in which the voyage is
13 scheduled to occur. An additional amount owed under this subsection because of an
14 unscheduled voyage, or a refund request under this subsection because of a cancelled voyage,
15 shall be submitted to the department within 30 days after the vessel's last voyage in marine
16 waters of the state in that calendar year.

17 (b) In this section, "commercial passenger vessel," "department," "voyage," and
18 "marine waters of the state" have the meaning given in AS 46.03.490, enacted by sec. 1 of this
19 Act.

20 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 DELAYED APPLICABILITY TO SMALLER VESSELS. (a) Notwithstanding sec.
23 11 of this Act, AS 46.03.463(a) - (d) and 46.03.480, enacted by sec. 1 of this Act, do not
24 apply until January 1, 2004, in the case of commercial passenger vessels with an overnight
25 accommodation capacity of 249 or fewer, determined by the number of lower berths available
26 for passengers for hire.

(b) In this section, "commercial passenger vessel" and "passengers for hire" have the meanings given in AS 46.03.490, enacted by sec. 1 of this Act.

29 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 ASSESSMENT REPORTS. (a) By December 1, 2002, the department shall submit to

1 the governor a report that assesses the information received by the department for the cruise
2 ship seasons of 2000, 2001, and 2002 related to small commercial passenger vessels. The
3 report must include

4 (1) a characterization, to the extent possible, of the risks to the marine and
5 human environments posed by the discharge of sewage, graywater, and other wastewater from
6 small commercial passenger vessels;

7 (2) evaluation of the sewage and graywater treatment systems and
8 technologies on the vessels, including an evaluation of whether small commercial passenger
9 vessels should be made subject to the requirements of AS 46.03.463(e) on and after January 1,
10 2004; and

11 (3) recommendations for future action by the state in relation to the matters
12 discussed in the report.

13 (b) By January 15, 2004, the Department of Environmental Conservation shall submit
14 to the governor a report that assesses the information received by the department for the cruise
15 ship seasons of 2000, 2001, 2002, and 2003. The report must include

16 (1) a characterization, to the extent possible, of the risks to the marine and
17 human environments posed by the discharge of sewage, graywater, and other wastewater from
18 commercial passenger vessels;

19 (2) evaluation of the sewage and graywater treatment systems and
20 technologies on the vessels; and

21 (3) recommendations for future action by the state in relation to the matters
22 discussed in the report.

23 (c) While producing the assessments required under this section, the department shall
24 consult its own records, appropriate federal and state agencies, owners and operators of
25 passenger and other vessels, affected parties, and other appropriate sources of information.

26 (d) The department shall notify the legislature when the report required under this
27 section has been submitted to the governor.

28 (e) In this section,

29 (1) "commercial passenger vessel" has the meaning given in AS 46.03.490,
30 enacted by sec. 1 of this Act;

31 (2) "department" means the Department of Environmental Conservation;

(3) "other wastewater" has the meaning given in AS 46.03.490, enacted by sec. 1 of this Act;

(4) "small commercial passenger vessel" has the meaning given in AS 46.03.490, enacted by sec. 1 of this Act.

5 * **Sec. 9.** The uncodified law of the state of Alaska is amended by adding a new section to
6 read:

7 TRANSITION: REGULATIONS. Notwithstanding sec. 11 of this Act, the
8 Department of Environmental Conservation may immediately proceed to adopt regulations
9 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative
10 Procedure Act) but not before the effective date of the statutory provision.

¹¹ * **Sec. 10.** Section 9 of this Act takes effect immediately under AS 01.10.070(c).

12 * **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect July 1, 2001.