



LAWS OF ALASKA

1970

Source

Chapter No.

HCS CSSB 536 (Judiciary) am H

244

AN ACT

Prohibiting water pollution.

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

* Section 1. AS 46.05 is amended by adding a new section to read:

Sec. 46.05.173. BALLAST WATER DISCHARGE. (a) No person may pollute or add to the pollution of waters of the state by discharging from any sea-going vessel ballast water, tank-cleaning waste water or other waste containing oil in excess of 100 parts per million of oily residue. This subsection does not apply to fishing vessels of less than 300 gross tons.

(b) Except as provided in (c) of this section, no vessel may take on oil, petroleum products, or their by-products as cargo unless it arrives in ports in the state without having discharged ballast at sea, and the master of the vessel certifies that fact on forms provided by the department.

(c) Vessels equipped with tanks used exclusively for ballast or capable of producing ballast with an oil content less than that provided for in (a) of this section may discharge that ballast at sea, including the waters of the state, if it meets the standards of (a) of this section and the master of the vessel certifies that fact on forms provided by the department.

(d) A person in charge of a sea-going vessel or of an onshore or offshore facility, as soon as he has knowledge of any discharge from the vessel or facility in violation of a provision of this chapter shall immediately notify the department of the discharge.

* Sec. 2. AS 46.05.210 is amended to read:

Sec. 46.05.210. PENALTIES. (a) A person who violates secs. 170 - 173 of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$25,000 or imprisonment for not more than a year or by both. Each unlawful act constitutes a separate offense.

(b) In addition to the penalties provided in (a) of this section, a person who violates secs. 170 - 173 of this chapter is liable, in a civil action, to the state for liquidated damages to be assessed by the court for an amount not less than \$5,000 nor more than \$100,000, depending on the severity of the violation.

(c) In addition to the penalties provided in (a) of this section, a person who violates a provision of sec. 173 of this chapter is liable to the state, in a civil action, in the case of a vessel, for damages in an amount not to exceed \$100 per gross ton of the violating vessel or \$14 million, whichever is less and in the case of an onshore or offshore facility \$100 per every \$500 evaluation of the violating facility or \$14 million whichever is less. However, if the state shows that a violation of sec. 173 of this chapter was the result of wilful negligence or wilful misconduct on the part of the person charged with the violation, the person is liable to the state for the full amount of damages caused. In the case of wilful negligence or wilful misconduct "damages", in this subsection, means costs associated with the abatement, containment or removal of a pollutant and reasonable restoration of the environment to its former state.

(d) A person who falsely certifies information required under sec. 173 of this chapter, upon conviction, is punishable by a fine of not more than \$25,000 or imprisonment for not more than one year or by both. Each unlawful act constitutes a separate offense.

(e) Nothing in this section affects an individual's right to recover damages under other applicable statutes or the common law.