

SENATE CS FOR CS FOR HOUSE BILL NO. 144(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/9/98

Referred: Rules

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Department of Environmental
2 Conservation to charge fees; and providing for an effective date."

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

4 * **Section 1.** AS 03.05.025 is amended by adding a new subsection to read:

5 (c) Notwithstanding AS 44.46.025, the fee for a seafood processing permit and
6 routine inspections for a direct-market fishing vessel may not exceed \$150. In this
7 subsection, "direct-market fishing vessel" means a fishing vessel that has an overall
8 length of less than 65 feet, that processes the vessel operator's own catch of seafood
9 products on board the vessel for direct retail sale to consumers, and for which a hazard
10 analysis critical control point plan is not required under federal law.

11 * **Sec. 2.** AS 44.46.025(a) is amended to read:

12 (a) **Subject to other provisions of this section, the** [THE] Department of
13 Environmental Conservation may adopt regulations that prescribe reasonable fees, and
14 establish procedures for the collection of the fees, to cover the applicable direct costs,

1 not including travel, of inspections, permit preparation and administration, plan review
2 and approval, and other services provided by the department relating to

3 (1) agriculture and animals under AS 03.05; food, drugs, and cosmetics
4 under AS 17.20; and public accommodations and facilities under AS 18.35;

5 (2) certificates of inspection for motor vehicles under AS 46.14.400 or
6 46.14.510;

7 (3) **except as provided in (e)(4) of this section, domestic**
8 **[SEWERAGE SYSTEM AND TREATMENT WORKS AND] wastewater treatment**
9 **and** disposal systems [,] and drinking water systems [,] under AS 46.03.720;

10 (4) [REPEALED

11 (5) REPEALED

12 (6)] water and wastewater operator training under AS 46.30;

13 **(5)** [(7) CONTROL OF SOLID WASTE FACILITIES UNDER
14 AS 46.03.020(10) AND 46.03.100;

15 (8)] certification of laboratories conducting environmental analyses of
16 public drinking water systems or of oil or hazardous substances, or conducting other
17 analyses required by the department [;

18 (9) CERTIFICATION OF FEDERAL PERMITS OR
19 AUTHORIZATIONS UNDER 33 U.S.C. 1341 (SEC. 401, CLEAN WATER ACT)].

20 * **Sec. 3.** AS 44.46.025 is amended by adding new subsections to read:

21 (e) Subject to other provisions of this section, the department may adopt
22 regulations that prescribe reasonable fixed fees, and establish procedures for the
23 collection of the fees, to be paid by the person receiving the department's services to
24 cover the actual direct costs, not including travel, of permit preparation and
25 administration, plan review and approval, operator training, and inspections relating to

26 (1) control of solid waste facilities under AS 46.03.020(10) and
27 46.03.100;

28 (2) nondomestic wastewater treatment and disposal systems under
29 AS 46.03.720;

30 (3) certification of federal permits or authorizations under 33 U.S.C.
31 1341 (sec. 401, Clean Water Act); and

1 (4) domestic wastewater treatment and disposal systems and drinking
2 water systems under AS 46.03.720 if the system serves only a discrete industrial
3 operation.

4 (f) Notwithstanding (a), (e), (h), and (l) of this section, the department shall,
5 at the request of an applicant or permittee, negotiate a fee for services provided under
6 (a)(3) or (e)(1) - (4) of this section that is based on the average hourly rate of
7 compensation of each departmental employee required to perform the service and a
8 maximum number of hours for which the fee will be charged, and the fee may cover
9 associated travel costs and costs described in (h) of this section.

10 (g) The department shall charge and collect a fee of \$40 for registration of a
11 restricted-use pesticide, as defined in AS 46.03.900. The department shall charge and
12 collect a fee of \$30 for registration of an agricultural pesticide. The department shall
13 charge and collect a fee of \$25 for registration of a consumer protection and health
14 benefit product. In this subsection, "consumer protection and health benefit product"
15 means a

16 (1) disinfectant, sanitizer, germicide, biocide, or other pesticide labeled
17 for use directly on humans or pets, including dogs, cats, horses, and other companion
18 animals; or

19 (2) pesticide for use directly in areas in or around household premises.

20 (h) Except for fees under (c) of this section, the department may not charge
21 a fee for the costs to the department for conferring with or providing information to
22 a third party about an application or a permit unless the third party is acting as a legal
23 representative or as an agent of the applicant or permittee. However, the department
24 may require an applicant to pay for the costs of providing public notice of a permit
25 application when the notice is otherwise required by law.

26 (i) Notwithstanding (e) of this section, the department may prescribe an hourly
27 fee for the actual direct costs of services provided under (e)(1) of this section, rather
28 than a fixed fee, if the fee otherwise complies with this section.

29 (j) Notwithstanding (e) of this section, the department may prescribe an hourly
30 fee to cover the actual direct costs to the department for

31 (1) work performed on an application that is withdrawn before

1 completion; or

2 (2) an inspection that is conducted at the request of an applicant or
 3 permittee when the department would not otherwise conduct an inspection or for an
 4 inspection that is conducted outside of the department's normal working hours after a
 5 request by an applicant or permittee for an after-hours inspection; fees charged under
 6 this paragraph may include travel costs incurred in providing the inspection.

7 (k) Notwithstanding other provisions of this section, the department may adopt
 8 regulations that prescribe reasonable hourly rates, and establish procedures for
 9 collection of the fees, for preapplication consultative services provided to an applicant
 10 at the request of the applicant for any permit or approval required by the department.

11 (l) In this section, "actual direct costs" means the average hourly rate of
 12 compensation of each departmental employee, including clerical staff, required to
 13 perform the service under normal circumstances, multiplied by the number of hours
 14 usually required to perform the service being provided; "actual direct costs" does not
 15 include

16 (1) overhead expenses;

17 (2) the costs of administrative support or supervisory personnel who are
 18 not directly engaged in providing the service; or

19 (3) travel expenses.

20 * **Sec. 4. APPLICABILITY.** This Act applies to agreements entered into, fees for
 21 registrations applied for, and fees for services performed on or after the effective date of the
 22 applicable provision of this Act.

23 * **Sec. 5.** AS 03.05.025(c), enacted by sec. 1 of this Act, and AS 44.46.025(f), enacted by
 24 sec. 3 of this Act, take effect immediately under AS 01.10.070(c).