

CSSB 110(RLS)

Amendment No. 1 by Senator(s) Leman, Taylor, Wilken:

Page 1, lines 1 - 2:

Delete all material and insert:

""An Act relating to liability for the release of hazardous substances involving certain property acquired by a governmental entity; relating to making a determination as to when a hazardous substance release has occurred; relating to liability of a party other than the party responsible for the initial release of a hazardous substance; and providing for an effective date.""

Page 1, following line 3:

Insert a new bill section to read:

**** Section. 1.** AS 46.03.822(d) is amended to read:

(d) To establish that a person had no reason to know that the hazardous substance was disposed of on, in, or at the facility, as provided in (c)(1) **and (m)** of this section, the person must have undertaken, at the time of acquisition, all reasonable inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. For purposes of this subsection a court shall take into account all relevant facts, including

- (1) any specialized knowledge or experience the person has;
- (2) the relationship of the purchase price to the value of the property if it were uncontaminated;
- (3) commonly known or reasonably ascertainable information about the property;
- (4) the obviousness of the presence or likely presence of contamination at the property; and
- (5) the ability to detect contamination by appropriate inspection."

Page 1, line 4:

Delete **** Section 1.**

Insert **** Sec. 2.**

Delete "a new subsection"

Insert "new subsections"

Renumber the following bill sections accordingly.

Page 2, following line 14:

Insert a new subsection to read:

"(m) For purposes of determining liability in an action to recover damages or costs under this section, a release shall be considered to have occurred when a hazardous substance is first introduced into the environment. A party, other than the party responsible for the initial release, who had no reason to know that a hazardous substance was disposed of on, in, or at the facility and who has acted responsibly upon discovering contamination in accordance with (b)(2) of this section may not be held liable for the

spread or migration of the hazardous substance except by an act of intentional misconduct or gross negligence."

Page 2, line 15:

Delete "sec. 1"

Insert "sec. 2"

This amendment text is provisional. Please refer to the certified journal text.