

**HOUSE BILL NO. 371**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KERTTULA

Introduced: 2/11/00

Referred: Transportation, Labor and Commerce, Resources, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to certain passenger vessels transacting business in the state or  
2 operating in the marine waters of the state."

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

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

5 **Article 6A. Large Passenger Vessels.**

6 **Sec. 46.03.460. Registration requirements.** (a) Before the beginning of each  
7 calendar year in which the owner or operator of a large passenger vessel intends to  
8 transact business in this state, the owner or operator of the vessel shall register with  
9 the department. The registration must include the following information:

10 (1) the vessel owner's business name and, if different, the vessel  
11 operator's business name;

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

1 (3) the name and address of an agent for service of process for each  
 2 business identified under (1) of this subsection; the owner and operator shall  
 3 continuously maintain a designated agent for service of process whenever transacting  
 4 business in this state, and the agent must be an individual resident of this state, a  
 5 domestic corporation, or a foreign corporation having a place of business in and  
 6 authorized to do business in this state;

7 (4) the name or call sign of and Port of Registry for each of the  
 8 owner's or operator's vessels that is scheduled to call upon a port in this state during  
 9 the calendar year occurring after the date of registration; and

10 (5) other information required by the department by regulation.

11 (b) Registration under (a) of this section must be signed under oath by the  
 12 owner or operator.

13 **Sec. 46.03.465. Information-gathering requirements.** (a) Owners and  
 14 operators of large passenger vessels shall, during any calendar month in which they  
 15 operate, or cause or suffer to be operated, a large passenger vessel in the marine waters  
 16 of the state, record or cause to be recorded all information necessary to completely  
 17 report as required by AS 46.03.475.

18 (b) At least once during each calendar month in which a large passenger vessel  
 19 is present in the marine waters of the state, and more often if required by the  
 20 department under regulations, the owner and operator of the vessel shall measure  
 21 visible emissions, excluding condensed water vapor, of the vessel while the vessel is  
 22 at berth or at anchor in a port of this state. If regulations have been adopted to  
 23 implement this subsection, the measuring technique used to satisfy the requirement of  
 24 this subsection must have been approved by the department before the measurement  
 25 was taken.

26 (c) The department shall adopt regulations directing owners and operators of  
 27 large passenger vessels to establish and operate appropriate devices, methods, systems,  
 28 and procedures necessary to quantify and qualify the releases of waterborne pollutants  
 29 from their vessels into the marine waters of the state.

30 (d) In order to reduce inefficiency and minimize unnecessary duplication, the  
 31 department shall implement the reporting requirements of this section in a manner

1 designed to coordinate the reporting requirements with other reporting requirements  
2 that may be applicable to the same vessels.

3 **Sec. 46.03.470. Record keeping requirements.** An owner or operator subject  
4 to AS 46.03.465 shall record the information gathered under that section and shall  
5 maintain the records for three years after the date the information was gathered.

6 **Sec. 46.03.475. Reporting requirements.** (a) An owner or operator of a  
7 large passenger vessel shall, within 10 days after the end of a calendar month in which  
8 the owner or operator has operated, or caused or suffered to be operated, a large  
9 passenger vessel in the marine waters of the state, submit to the department a report  
10 itemizing the offloading or release of pollutants from that vessel that occurred during  
11 the previous calendar month while the vessel was located in the marine waters of the  
12 state. The report must

13 (1) include the information required by this section; and

14 (2) contain or include copies of the reports concerning pollutants that  
15 are required by the department in the department's enforcement of other provisions of  
16 this title.

17 (b) For each release of a pollutant, except by an emission to ambient air from  
18 a stack, the report must describe the

19 (1) location of the release, including latitude and longitude;

20 (2) quantity, composition, and origin of the pollutant released;

21 (3) circumstances surrounding and cause of the release, including a  
22 statement as to whether the release was intentional or accidental;

23 (4) environmental damage caused by the release, to the extent the  
24 damage can be reasonably identified; and

25 (5) remedial efforts taken to prevent accidental recurrence of the  
26 release.

27 (c) For hazardous waste,

28 (1) the report must include a copy of each manifest prepared in  
29 accordance with 42 U.S.C. 6921 - 6939e (Subtitle C of the Solid Waste Disposal Act);  
30 and

31 (2) if hazardous waste is offloaded from the vessel without a manifest,

1 the report must describe the

2 (A) quantity, composition, and origin of the waste;

3 (B) location of offloading;

4 (C) destination of offloaded waste; and

5 (D) reasons why the waste was offloaded without a manifest.

6 (d) For solid waste and industrial waste, the report must describe the

7 (1) weight and composition of waste offloaded from the vessel;

8 (2) location of waste offloading;

9 (3) destination of offloaded waste; and

10 (4) solid waste processing facility or treatment works located on the  
11 vessel, the quantity of waste processed by the facility or works during that calendar  
12 month, and an explanation of whether the processed waste was stored, released, or  
13 offloaded while the vessel was in the marine waters of the state.

14 (e) For emissions to ambient air from a stack, the report must include the  
15 measurements of visible emissions collected under AS 46.03.465(b) and, if a stack on  
16 the vessel is equipped with continuous emission monitors, the recordings printed by  
17 the monitors for the period the vessel was in the marine waters of the state.

18 (f) For sewage, the report must describe treatment works located on the vessel,  
19 the quantity of waste processed by the works during that calendar month, and an  
20 explanation of whether the treated waste was stored, released, or offloaded while the  
21 vessel was in the marine waters of the state.

22 (g) For graywater and other wastewater other than sewage, the report must  
23 describe the location of offloading.

24 (h) For medical waste, the report must generally describe any onboard  
25 treatment and the manner or method of ultimate disposal.

26 (i) The department may by regulation require an owner or operator to submit  
27 supplemental or additional reports concerning the releases or offloading of pollutants  
28 by large passenger vessels.

29 (j) A record or report submitted under this section shall be signed under  
30 penalty of unsworn falsification by the owner, operator, or a responsible official of the  
31 reporting vessel and must include the following statement: "Based on information and

1 belief formed after reasonable inquiry, I certify that the statements and information in  
2 and attached to this document are true, accurate, and complete."

3 **Sec. 46.03.480. Penalties.** (a) An owner or operator who fails to comply with  
4 AS 46.03.460 may not bring a claim or counterclaim in a court of this state for a cause  
5 of action that arose during the time that the owner or operator was out of compliance  
6 with AS 46.03.460.

7 (b) An owner or operator who fails to comply with AS 46.03.460 or 46.03.475  
8 is subject to a civil penalty of not more than \$50 a day for each day of noncompliance  
9 as determined by the commissioner subject to right of appeal to the superior court.

10 (c) In addition to other applicable penalties, a person who falsifies a  
11 registration or report required by AS 46.03.460 or 46.03.475 is liable for damages  
12 under AS 46.03.760.

13 **Sec. 46.03.485. Regulations.** The department may adopt regulations that are  
14 necessary for the implementation of AS 46.03.460 - 46.03.490.

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

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

19 (2) "air contaminant" means a substance within the meaning given to  
20 "air contaminant" in either AS 46.03.900 or AS 46.14.990;

21 (3) "ambient air" has the meaning given in AS 46.14.990;

22 (4) "ballast water" means water and suspended matter taken on board  
23 a vessel to control or maintain trim, draught, stability, or stresses of the vessel,  
24 regardless of how the water and suspended matter are carried;

25 (5) "emission" means a release of one or more pollutants into the  
26 atmosphere;

27 (6) "graywater" means galley, bath, and shower water;

28 (7) "hazardous waste" has the meaning given in AS 46.03.900 and  
29 includes wastes that meet that definition and have been collected from staterooms,  
30 crew quarters, and other passenger or crew accommodations;

31 (8) "large passenger vessel" means a vessel engaged in the carrying of

1 passengers for hire, excluding

2 (A) vessels having accommodations for 40 or fewer passengers;

3 (B) vessels without berths or overnight accommodations for  
4 passengers; and

5 (C) noncommercial vessels, warships, vessels operated by  
6 nonprofit entities as determined by the United States Internal Revenue Service,  
7 and vessels operated by the state, the United States, or a foreign government;

8 (9) "marine waters of the state" has the meaning given to "waters" in  
9 AS 46.03.900 except that it includes only marine waters;

10 (10) "medical waste" includes each of the types of solid waste listed  
11 in 42 U.S.C. 6992a (Demonstration Medical Waste Tracking Program, sec. 11002 of  
12 the Solid Waste Disposal Act);

13 (11) "offloading" means the removal of pollutants from a large  
14 passenger vessel onto or into a controlled storage, processing, or disposal facility or  
15 treatment works;

16 (12) "oil" has the meaning given in AS 46.04.900;

17 (13) "pollutant" means air contaminant, ballast water, biological  
18 materials, chemical wastes, graywater, hazardous waste, industrial waste, incinerator  
19 residue, medical waste, munitions, oil, radioactive materials, sewage, sewage sludge,  
20 solid waste, wrecked or discarded equipment, or any other substance that may alter or  
21 tend to alter the chemical, physical, biological, or radiological integrity of the marine  
22 waters of the state or the air above or submerged land below the marine waters of the  
23 state;

24 (14) "release" means spilling, leaking, pumping, pouring, emitting,  
25 emptying, discharging, injecting, escaping, leaching, dumping, placing, or disposing  
26 of pollutants into the environment, including the abandonment or discarding of bags,  
27 containers, and other receptacles containing a pollutant, and without regard to whether  
28 the pollutants left the vessel through a discrete conveyance or a nonpoint source;

29 (15) "responsible official" means

30 (A) for a corporation, a president, secretary, treasurer, or vice-  
31 president of the corporation in charge of a principal business function, or any

1 other person who performs similar policy or decision-making functions for the  
2 corporation, or a duly authorized representative of that person if the delegation  
3 of authority to the representative is approved in advance by the department;

4 (B) for a partnership, sole proprietorship, or limited liability  
5 company, a general partner, the proprietor, or the manager or managing  
6 member, respectively;

7 (16) "sewage," in addition to the meaning given in AS 46.03.900,  
8 includes material that has been collected or treated through a marine sanitation device  
9 as that term is used in 33 U.S.C. 1322 (sec. 312, Water Pollution Control Act);

10 (17) "stack" means a chimney or conduit through which air or air  
11 contaminants are emitted into the atmosphere;

12 (18) "vessel" means any form or manner of watercraft, other than a  
13 seaplane on the water, whether or not capable of self-propulsion.