

HOUSE BILL NO. 377

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/16/00

Referred: Transportation, Resources, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring oil discharge prevention and contingency plans and proof of
2 financial responsibility for non-tank vessels and railroad tank cars; authorizing
3 inspection under AS 46.04 of non-tank vessels and trains; and providing for an
4 effective date."

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

6 * **Section 1.** AS 46.04 is amended by adding a new section to read:

7 **Sec. 46.04.055. Non-tank vessels and railroad tank cars.** (a) A person may
8 not cause or permit the operation of a non-tank vessel within the waters of the state,
9 or cause or permit the transfer of oil to or from a non-tank vessel, unless

10 (1) effective June 1, 2001, an oil discharge prevention and contingency
11 plan has been approved by the department and the person is in compliance with the
12 plan; a plan under this paragraph is subject to the requirements of AS 46.04.030; and

13 (2) the person has furnished to the department, and the department has
14 approved, proof of financial ability to respond to damages meeting the requirements

1 of AS 46.04.040; proof of financial responsibility required under this paragraph is
2 subject to adjustment of dollar amounts under AS 46.04.045 and is established

3 (A) for a non-tank vessel that carries persistent product as fuel
4 or in bulk, at \$300 per incident for each barrel of persistent product storage
5 capacity or \$5,000,000, whichever is greater; and

6 (B) for a non-tank vessel that carries non-persistent product, at
7 \$100 per incident for each barrel of non-persistent product storage capacity or
8 \$1,000,000, whichever is greater.

9 (b) A person may not transport oil by railroad tank car, or cause or permit the
10 transfer of oil to or from a railroad tank car, unless

11 (1) effective June 1, 2001, an oil discharge prevention and contingency
12 plan has been approved by the department and the person is in compliance with the
13 plan; a plan under this paragraph is subject to the requirements of AS 46.04.030; and

14 (2) the person has furnished to the department, and the department has
15 approved, proof of financial ability to respond to damages meeting the requirements
16 of AS 46.04.040; proof of financial responsibility required under this paragraph is
17 subject to adjustment of dollar amounts under AS 46.04.045 and is established at

18 (A) \$300 per incident for each barrel of persistent product based
19 upon the maximum amount of persistent product storage capacity of any train
20 on the railroad; and

21 (B) \$100 per incident for each barrel of non-persistent product
22 based upon the maximum amount of non-persistent product storage capacity of
23 any train on the railroad or \$1,000,000, whichever is greater.

24 (c) Effective June 1, 2001, and for purposes of AS 46.04.030(k), response
25 planning standards apply to non-tank vessels and railroad tank cars as follows:

26 (1) for a non-tank vessel contingency plan required by (a)(1) of this
27 section:

28 (A) containment and control of 15 percent of the maximum oil
29 capacity of the non-tank vessel within 48 hours; and

30 (B) cleanup of the discharge within the shortest possible time
31 consistent with minimizing damage to the environment;

1 (2) for a railroad tank car contingency plan required by (b)(1) of this
2 section:

3 (A) containment and control of 15 percent of the maximum oil
4 capacity of any train on the railroad within 48 hours; and

5 (B) cleanup of the discharge within the shortest possible time
6 consistent with minimizing damage to the environment.

7 (d) In place of the requirements of (a)(1) and (b)(1) of this section, the
8 department may adopt regulations by negotiated regulation making under
9 AS 44.62.710 - 44.62.800 to provide for alternative means to obtain equivalent levels
10 of spill prevention and response.

11 * **Sec. 2.** AS 46.04.060 is amended to read:

12 **Sec. 46.04.060. Inspections.** (a) In addition to other rights of access or
13 inspection conferred upon the department by law or otherwise, the department may at
14 reasonable times and in a safe manner enter and inspect oil terminal facilities,
15 pipelines, exploration and production facilities, tank vessels, **non-tank vessels, trains,**
16 and oil barges in order to

17 (1) ensure compliance with the provisions of this chapter; or

18 (2) participate in an examination of the structural integrity and the
19 operating and mechanical systems of those vessels, barges, **trains,** pipelines, and
20 facilities by federal and state agencies with jurisdiction.

21 (b) When the department determines that no federal or state agencies with
22 jurisdiction are performing timely and adequate inspections of an oil terminal facility,
23 pipeline, exploration or production facility, tank vessel, **non-tank vessel, train,** or oil
24 barge, it may perform its own inspection of the structural integrity and operating and
25 mechanical systems of a facility, pipeline, tank vessel, **non-tank vessel, train,** or oil
26 barge by using personnel with qualifications in the areas being inspected.

27 * **Sec. 3.** AS 46.04.060 is amended by adding a new subsection to read:

28 (c) For purposes of this section, "train" includes tracks, associated facilities,
29 and operations.

30 * **Sec. 4.** AS 46.04.900(12) is amended to read:

31 (12) "oil terminal facility" means an onshore or offshore facility of any

1 kind, and related appurtenances, including but not limited to a deepwater port, bulk
 2 storage facility or marina, located in, on, or under the surface of the land or waters of
 3 the state, including tide and submerged land, which is used for the purpose of
 4 transferring, processing, refining, or storing oil; a vessel, other than a non-tank
 5 vessel, is considered an oil terminal facility only when it is used to make a ship-to-ship
 6 transfer of oil, and when it is traveling between the place of the ship-to-ship transfer
 7 of oil and an oil terminal facility;

8 * **Sec. 5.** AS 46.04.900(21) is amended to read:

9 (21) "vessel" includes tank vessels, [AND] oil barges, and non-tank
 10 vessels;

11 * **Sec. 6.** AS 46.04.900 is amended to add new paragraphs to read:

12 (24) "non-persistent product" means oil that is not a persistent product;

13 (25) "non-tank vessel" means any watercraft, other than a tank vessel,
 14 oil barge, or public vessel, of 300 gross registered tons or greater that has a oil storage
 15 capacity of greater than 6,000 gallons of oil; "non-tank vessel" includes commercial
 16 fish processor vessels, passenger vessels, and cargo vessels;

17 (26) "persistent product" means

18 (A) crude oil;

19 (B) a refined oil product with a common name such as bunker

20 C, number 6, Chevron residual, or lube oil; or

21 (C) other oil with similar viscosity, degradability, and
 22 dispersability;

23 (27) "public vessel" means a vessel that is operated by, and is either
 24 owned or bareboat-chartered by, the United States, a state or a political subdivision of
 25 that state, or a foreign nation, except when the vessel is engaged in commerce;

26 (28) "railroad tank car" means rolling stock used to transport oil in bulk
 27 as cargo by rail;

28 (29) "train" means connected rolling stock operated as a single moving
 29 vehicle on rails; for purposes of this paragraph, "connected rolling stock" includes
 30 railroad tank cars.

31 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section

1 to read:

2 TRANSITIONAL PROVISIONS: REGULATIONS. Notwithstanding sec. 9 of this
3 Act, the Department of Environmental Conservation may proceed to adopt regulations
4 necessary to implement the changes made by this Act. The regulations take effect under
5 AS 44.62 (Administrative Procedure Act), but not before the effective date of secs. 1 - 6 of
6 this Act.

7 * **Sec. 8.** Section 7 of this Act takes effect immediately under AS 01.10.070(c).

8 * **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect September 1, 2000.