

CS FOR SENATE BILL NO. 110(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/29/99

Referred: Rules

Sponsor(s): SENATOR WILKEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to liability for the release of hazardous substances; and
2 providing for an effective date."

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

4 * **Section 1.** AS 46.03.822 is amended by adding new subsections to read:

5 (l) A unit of state or local government that acquired ownership or control of
6 a vessel or facility through bankruptcy, foreclosure, deed in lieu of foreclosure, tax
7 delinquency proceeding, abandonment, escheat, the exercise of eminent domain
8 authority by purchase or condemnation, or circumstances in which the governmental
9 unit involuntarily acquired title by virtue of its function as a sovereign is not liable as
10 an owner or operator under this section unless the governmental unit has caused or
11 contributed to the release or threatened release of a hazardous substance at or from the
12 facility or vessel, in which case, the governmental unit is subject to liability under this
13 section in the same manner and to the same extent, both procedurally and
14 substantively, as any nongovernmental entity. For purposes of this subsection, "caused

1 or contributed to the release or threatened release of a hazardous substance"

2 (1) does not include the failure to prevent the passive leaching at or
3 from a facility or vessel of a hazardous substance in the air, land, or water that had
4 first been released to the environment by a person other than the governmental unit
5 that acquired the facility or vessel;

6 (2) does not include the exercise or failure to exercise regulatory or
7 enforcement authority;

8 (3) after the ownership or control of the facility or vessel has been
9 acquired by the governmental unit, includes

10 (A) the spilling, leaking, pumping, pouring, emptying, injecting,
11 escaping, or dumping of a hazardous substance from barrels, tanks, containers,
12 or other closed receptacles; or

13 (B) the abandonment or discarding of barrels, tanks, containers,
14 or other closed receptacles containing a hazardous substance.

15 (m) For purposes of determining liability in an action to recover damages or
16 costs under this section, a release shall be considered to have occurred when a
17 hazardous substance is first introduced into the environment. A party, other than the
18 party responsible for the initial release, who has acted responsibly upon discovering
19 contamination in accordance with (b)(2) of this section may not be held liable for the
20 spread or migration of the hazardous substance except by an act of intentional
21 misconduct or gross negligence.

22 * **Sec. 2.** AS 46.03.826(9) is amended to read:

23 (9) "release" means any spilling, leaking, pumping, pouring, emitting,
24 emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the
25 environment, including the abandonment or discarding of barrels, containers, and other
26 closed receptacles containing any hazardous substance, but excluding

27 (A) any release that results in exposure to persons solely within
28 a workplace, with respect to a claim that those persons may assert against the
29 persons' employer; [AND]

30 (B) emissions from the engine exhaust of a motor vehicle,
31 rolling stock, aircraft, or vessel; **and**

