

SENATE BILL NO. 128

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 3/31/99

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the storage tank assistance fund; eliminating the grant portion
2 of a program relating to risk assessment, containment, corrective action, and
3 cleanup of underground petroleum storage tank systems and replacing the grant
4 portion with a loan program; relating to discharges from underground petroleum
5 storage tank systems; and providing for an effective date."

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

7 * **Section 1.** AS 46.03.365(c) is amended to read:

8 (c) **When** [EXCEPT AS PROVIDED IN AS 46.03.420(c)(2)(A), WHEN] the
9 regulations adopted under this section address areas governed by federal laws or
10 regulations, the state regulations must be consistent with federal laws and regulations
11 and may not be more stringent than the federal laws and regulations.

12 * **Sec. 2.** AS 46.03.405 is amended to read:

13 **Sec. 46.03.405. Prohibitions.** A person, including a governmental entity or

1 institution, or a public corporation, may not operate an underground petroleum storage
2 tank or tank system unless

3 (1) the tank and tank system is registered with the department as
4 provided in AS 46.03.360 - 46.03.450 or other law; and

5 (2) [EXCEPT AS PROVIDED IN AS 46.03.420(c)(1)(D),] the person
6 has provided to the department proof of financial responsibility to the extent required
7 under regulations adopted under AS 46.03.365 or proof of application for arrangements
8 that would satisfy state financial responsibility requirements.

9 * **Sec. 3.** AS 46.03.410(a) is amended to read:

10 (a) There is established the storage tank assistance fund. It consists of money
11 appropriated to it by law. The department shall deposit earnings on money in the fund
12 in the general fund. The legislature may use the estimated balance in the account
13 maintained by the commissioner of administration under AS 37.05.142 to make
14 appropriations to the fund. **The legislature may appropriate unencumbered money**
15 **from the fund for any purpose, including the cost of risk assessment, containment,**
16 **corrective action, and cleanup, relating to an underground petroleum storage tank**
17 **system owned or operated by the federal government, the state, the University of**
18 **Alaska, a public corporation, a school district, or another political subdivision or**
19 **instrumentality of the state. An application for funds that has been approved by**
20 **the commissioner under AS 46.03.415 - 46.03.430 pending availability of funds is**
21 **not considered an encumbrance for purposes of this subsection.**

22 * **Sec. 4.** AS 46.03.410(b) is amended to read:

23 (b) The commissioner may use money in the fund **that has not been**
24 **appropriated for another purpose** to pay for

25 (1) tank tightness tests or site assessments under AS 46.03.415;

26 (2) [GRANTS AND] loans under AS 46.03.420 for risk assessment,
27 containment, corrective action, and cleanup costs; and

28 (3) grants under AS 46.03.430 for tank system upgrading and closure.

29 * **Sec. 5.** AS 46.03.420 is repealed and reenacted to read:

30 **Sec. 46.03.420. Tank cleanup program.** (a) Subject to whether another
31 activity for which money may be used under AS 46.03.410 constitutes a higher priority

1 for fund expenditures, the commissioner may make a loan from the storage tank
 2 assistance fund to an owner or operator of an underground petroleum storage tank
 3 system for the costs of risk assessment, containment, corrective action, and cleanup
 4 resulting from a release of petroleum from or associated with an underground
 5 petroleum storage tank system if the owner or operator

6 (1) before July 1, 1994, submitted an application for a grant under the
 7 former provisions of this section and the application was approved by the department
 8 before July 1, 1999, subject to the availability of funds;

9 (2) agrees to accept a loan in the same or lesser amount instead of a
 10 grant for the same project; and

11 (3) agrees to provide additional security or collateral for the loan if
 12 requested by the department.

13 (b) The department may require more security or collateral for a loan made
 14 under this section than was required under a previously approved grant application for
 15 the same project.

16 (c) This section does not affect

17 (1) the liability under state or federal law of a person or entity that
 18 receives assistance under this section for the costs of risk management, containment,
 19 corrective action, and cleanup resulting from a release of petroleum; or

20 (2) the authority of the department to seek recovery from the owner or
 21 operator of costs other than grants or loans actually made to an owner or operator
 22 under this section or the former provisions of this section.

23 (d) The legislature may appropriate to the storage tank assistance fund
 24 established under AS 46.03.410 the annual estimated balance of the account maintained
 25 under AS 37.05.142 by the commissioner of administration to keep track of loan
 26 repayments under this section.

27 * **Sec. 6.** Section 4(a), ch. 96, SLA 1990, is amended to read:

28 (a) Notwithstanding AS 46.03.420(c) [AS 46.03.420(h)], 46.03.758, 46.03.760,
 29 46.03.780, 46.03.790, and 46.03.822, a person, including a municipal school district,
 30 regional educational attendance area, or municipality, is not civilly or criminally liable
 31 to the state under those sections for a discharge covered by those sections if the person

1 demonstrates by a preponderance of the evidence that the person

2 (1) is the owner or operator of an underground petroleum storage tank
3 or tank system, as defined in AS 46.03.450, enacted by sec. 2 of this Act, that was
4 installed before December 22, 1988, and the discharge occurred from that tank or tank
5 system before December 22, 1992;

6 (2) acted in good faith to report, assess, and mitigate damage from the
7 discharge and to undertake corrective action in accordance with applicable state and
8 federal law and was in compliance with all applicable state and federal law before the
9 discharge occurred;

10 (3) is receiving or has been approved for state funds under
11 AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act; and

12 (4) did not intentionally cause the discharge.

13 * **Sec. 7.** AS 46.03.380(b)(3)(B)(ii) is repealed.

14 * **Sec. 8.** This Act takes effect July 1, 1999.