

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 22(TRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered: 4/20/01

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVE KERTTULA

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act requiring the owners or operators of certain passenger vessels operating in the  
2 marine waters of the state to register the vessels; establishing information-gathering,  
3 record keeping, and reporting requirements relating to the vessels' graywater and the  
4 offloading or release of pollutants from the vessels; prohibiting the discharge of  
5 untreated sewage from the vessels; placing limits on discharges of treated sewage and  
6 graywater from the vessels; establishing penalties for failure to comply with certain laws  
7 relating to the vessels; requiring a report from the Department of Environmental  
8 Conservation concerning matters relating to the vessels; and providing for an effective  
9 date."

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

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

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

1           **Sec. 46.03.460. Registration requirements.** (a) Except as provided in  
 2 AS 46.03.484, each calendar year in which the owner or operator of a large passenger  
 3 vessel intends to operate, or cause or allow to be operated, the vessel in the marine  
 4 waters of the state, the owner or operator of the vessel shall register with the  
 5 department. The registration shall be completed no later than 72 hours after any large  
 6 passenger vessel of the owner or operator calls upon a port in the state. The  
 7 registration must include the following information:

8                   (1) the vessel owner's business name and, if different, the vessel  
 9 operator's business name for each large passenger vessel of the owner that is  
 10 scheduled to be in the marine waters of the state during the calendar year;

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

14                   (3) the name and address of an agent for service of process for each  
 15 business identified under (1) of this subsection; the owner and operator shall  
 16 continuously maintain a designated agent for service of process whenever a large  
 17 passenger vessel of the owner or operator is in the marine waters of the state, and the  
 18 agent must be an individual resident of this state, a domestic corporation, or a foreign  
 19 corporation having a place of business in and authorized to do business in this state;  
 20 and

21                   (4) the name or call sign of and Port of Registry for each of the owner's  
 22 or operator's vessels that is scheduled either to call upon a port in this state or  
 23 otherwise to be in the marine waters of the state during the calendar year occurring  
 24 after the date of registration.

25           (b) Registration under (a) of this section shall be signed under oath by the  
 26 owner or operator.

27           (c) Upon request of the department, the registrant shall submit registration  
 28 information required under this section electronically.

29           **Sec. 46.03.463. Prohibited discharges; limitations on discharges.** (a)  
 30 Except as provided in (f) of this section, a person may not discharge untreated sewage  
 31 from a large passenger vessel into the marine waters of the state.

1 (b) Except as provided in (f) of this section, a person may not discharge  
 2 treated sewage from a large passenger vessel into the marine waters of the state that  
 3 fails to meet the effluent standards for treated sewage established by the Administrator  
 4 of the United States Environmental Protection Agency under sec. 1407 of the federal  
 5 cruise ship legislation. Until the Administrator promulgates the effluent standards, a  
 6 person may not discharge treated sewage from a large passenger vessel into the marine  
 7 waters of the state that has a fecal coliform bacterial count greater than 200 colonies  
 8 per 100 milliliters or suspended solids greater than 150 milligrams per liter.

9 (c) Beginning January 1, 2003, or, if earlier, the date on which the  
 10 Administrator of the United States Environmental Protection Agency establishes  
 11 effluent standards for graywater under sec. 1407 of the federal cruise ship legislation,  
 12 a person may not, except as provided in (f) of this section, discharge graywater from a  
 13 large passenger vessel into the marine waters of the state that

14 (1) fails to meet the effluent standards; or

15 (2) in any event, has a fecal coliform bacterial count greater than 200  
 16 colonies per 100 milliliters or suspended solids greater than 150 milligrams per liter.

17 (d) Except as provided in (e) and (f) of this section, a person may not  
 18 discharge treated sewage or graywater from a large passenger vessel into the marine  
 19 waters of the state unless

20 (1) the vessel is underway and proceeding at a speed of not less than  
 21 six knots;

22 (2) the vessel is not less than one nautical mile from the nearest shore,  
 23 except in areas designated by the department;

24 (3) the discharge complies with all applicable vessel effluent standards  
 25 established under the federal cruise ship legislation and any other applicable law; and

26 (4) the vessel is not in an area where the discharge of treated sewage or  
 27 graywater is prohibited.

28 (e) The provisions of (d)(1) and (2) of this section do not apply to a discharge  
 29 permitted under sec. 1404(b) or (c) of the federal cruise ship legislation.

30 (f) The provisions of (a) - (d) of this section do not apply to discharges made  
 31 for the purpose of securing the safety of the large passenger vessel or saving life at

1 sea, provided that all reasonable precautions have been taken for the purpose of  
2 preventing or minimizing the discharge.

3 (g) In this section, "federal cruise ship legislation" means secs. 1401 - 1414 of  
4 H.R. 5666, as incorporated by reference into P.L. 106-554.

5 **Sec. 46.03.465. Information-gathering requirements.** (a) Owners and  
6 operators of large passenger vessels shall, for the time during any calendar month in  
7 which they operate, or cause or allow to be operated, a large passenger vessel in the  
8 marine waters of the state, record or cause to be recorded all information necessary to  
9 completely report as required by AS 46.03.475.

10 (b) While a large passenger vessel is present in the marine waters of the state,  
11 the owner or operator of the vessel shall collect samples of the vessel's graywater

12 (1) with a sampling technique approved by the department before the  
13 sample is collected;

14 (2) at least twice during the time period consisting of May, June, July,  
15 August, and September each year; if the vessel is in the marine waters of the state  
16 during more than one of the months specified in this paragraph, the samples required  
17 by this subsection shall be collected in two different months; the samples shall be  
18 collected at least 15 days apart unless the vessel is in the marine waters of the state for  
19 less than 15 days during the time period described in this paragraph, in which case the  
20 samples shall be collected on the first and last day that the vessel is in the marine  
21 waters of the state during that time period; and

22 (3) no less frequently than samples are required to be collected under  
23 federal laws and regulations for treated sewage discharges.

24 (c) The owner or operator of a vessel required to collect graywater samples  
25 under (b) of this section shall have the samples tested

26 (1) with an analytical testing method that was approved by the  
27 department before the testing is conducted;

28 (2) to measure fecal coliform, ammonia, residual chlorine, pH, total  
29 suspended solids, and biochemical oxygen demand (BOD) in the sample.

30 (d) If the owner or operator of a large passenger vessel has, when complying  
31 with another state or federal law that requires substantially equivalent information

1 gathering, gathered the type of information required under this section, the owner or  
2 operator shall be considered to be in compliance with this section.

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

7 **Sec. 46.03.475. Monthly reporting requirements.** (a) An owner or operator  
8 of a large passenger vessel shall, within 21 days after the end of a calendar month in  
9 which the owner or operator has operated, or caused or allowed to be operated, a large  
10 passenger vessel in the marine waters of the state, submit to the department a report  
11 concerning the offloading or release of pollutants from that vessel that occurred during  
12 the previous calendar month. The report must

13 (1) include the information required for releases by (c) and (d) of this  
14 section;

15 (2) include the information required for offloading by (e) - (g) of this  
16 section; and

17 (3) be limited to releases and offloading that occurred while the vessel  
18 was in the marine waters of the state.

19 (b) The information in the report required under this section may be provided  
20 by referring to, and including copies of, other reports concerning pollutants that are  
21 required by substantially equivalent state or federal reporting requirements.

22 (c) For each intentional release of sewage, whether treated or untreated, the  
23 report required under this section must describe the

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

25 (2) date and time of the release;

26 (3) volume, flow rate, or weight, and the type and source of the  
27 sewage;

28 (4) processing or treatment used on the sewage before the release; and

29 (5) circumstances surrounding the release, including a statement that  
30 the release was intentional.

31 (d) For each release of a pollutant other than a release covered by (c) of this

1 section, the report required under this section must describe the

- 2 (1) location of the release, including latitude and longitude;
- 3 (2) date and time of the release;
- 4 (3) volume, flow rate, or weight, and the type and source of the
- 5 pollutant released;
- 6 (4) processing or treatment used on the pollutant before the release;
- 7 (5) circumstances surrounding and cause of the release, including a
- 8 statement as to whether the release was intentional or accidental;
- 9 (6) environmental damage caused by the release, to the extent the
- 10 damage can be reasonably identified; and
- 11 (7) remedial efforts taken to prevent accidental recurrence of the
- 12 release.

13 (e) For pollutants that were offloaded, the report required under this section

14 must describe the

- 15 (1) location of offloading;
- 16 (2) date of offloading;
- 17 (3) volume, flow rate, or weight, and the type and source of the
- 18 offloaded material;
- 19 (4) ultimate destination of the offloaded material; and
- 20 (5) processing or treatment received by the offloaded material before
- 21 or during the offloading.

22 (f) If hazardous waste was offloaded from the vessel and the hazardous waste

23 was manifested in accordance with 42 U.S.C. 6921 - 6939a (Subtitle C of the Solid

24 Waste Disposal Act), the report required under this section may, instead of the

25 information described in (e) of this section, include a copy of the manifest. If

26 hazardous waste was offloaded from the vessel without a manifest, the report required

27 under this section must, in addition to the information described in (e) of this section,

28 describe the reasons why the waste was offloaded without a manifest.

29 (g) For graywater, treated sewage, and other wastewater, the report required

30 under this section must state whether the graywater, treated sewage, and other

31 wastewater were mixed with one another or with other pollutants before or during

1 release or offloading. If mixing of pollutants occurred before or during offloading, the  
 2 report must identify the specific pollutants involved in the mixing, if feasible. If  
 3 identification of the specific pollutants is not feasible, the report must identify the  
 4 waste streams in the mixture.

5 (h) A record or report submitted under this section shall be signed under  
 6 penalty of unsworn falsification by the owner, operator, or a responsible official of the  
 7 reporting vessel and must include the following statement: "Based on information and  
 8 belief formed after reasonable inquiry, I certify that the statements and information in  
 9 and attached to this document are true, accurate, and complete and that the offloading,  
 10 releases, treatment, and processing described in this document were in compliance  
 11 with applicable laws and regulations."

12 (i) Upon request of the department, the report required under this section shall  
 13 be submitted electronically.

14 (j) This section does not relieve the owner or operator of a large passenger  
 15 vessel from other applicable reporting requirements of state or federal law.

16 **Sec. 46.03.477. Other reporting requirements** (a) If the owner or operator  
 17 of a large passenger vessel operating in the marine waters of the state is required by  
 18 the administrator of the Environmental Protection Agency or the secretary of the  
 19 federal department in which the United States Coast Guard is operating to collect  
 20 samples and test sewage or graywater and keep records of the sampling and testing,  
 21 the owner or operator shall, within 21 days after the sewage or graywater is tested,  
 22 submit to the department a copy of the records.

23 (b) Within 21 days after the testing required under AS 46.03.465(c), the owner  
 24 or operator shall submit a written report to the department that contains the  
 25 measurements required under AS 46.03.465(c)(2) and describes the sampling  
 26 technique and analytical testing methods used.

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

31 (b) An owner or operator who fails to comply with AS 46.03.460 or a

1 reporting requirement of AS 46.03.475, 46.03.477, or 46.03.485 is subject to an  
 2 administrative penalty of not more than \$50 a day for each day of noncompliance with  
 3 each requirement as determined by the commissioner subject to right of appeal to the  
 4 superior court.

5 **Sec. 46.03.484. Exemption for vessels in innocent passage.** AS 46.03.460 -  
 6 46.03.490 do not apply to a large passenger vessel that operates in the marine waters  
 7 of the state solely in innocent passage. For the purpose of this section, a vessel is  
 8 engaged in innocent passage if its operation in state waters would constitute innocent  
 9 passage under the

10 (1) Convention on the Territorial Sea and the Contiguous Zone,  
 11 April 29, 1958, 15 U.S.T. 1606; or

12 (2) United Nations Convention on the Law of the Sea 1982,  
 13 December 10, 1982, United Nations Publication No. E.83.V.5., 21 I.L.M. 1261  
 14 (1982).

15 **Sec. 46.03.485. Regulations.** The department may adopt regulations that are  
 16 necessary for the implementation of exemptions to AS 46.03.460 - 46.03.490.

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

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

21 (2) "graywater" means galley, dishwasher, bath, and laundry  
 22 wastewater;

23 (3) "hazardous substance" has the meaning given in AS 46.03.826;

24 (4) "hazardous waste" has the meaning given in AS 46.03.900 and  
 25 includes wastes that meet that definition and have been collected from staterooms,  
 26 crew quarters, and other passenger or crew accommodations;

27 (5) "large passenger vessel" means a vessel that is authorized to carry  
 28 500 or more passengers for hire, excluding noncommercial vessels, warships, and  
 29 vessels operated by the state, the United States, or a foreign government;

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

1 (7) "medical waste" includes each of the types of solid waste listed in  
 2 42 U.S.C. 6992a (Demonstration Medical Waste Tracking Program, sec. 11002 of the  
 3 Solid Waste Disposal Act);

4 (8) "offloading" means the removal of pollutants from a large  
 5 passenger vessel onto or into a controlled storage, processing, or disposal facility or  
 6 treatment works;

7 (9) "oil" has the meaning given in AS 46.04.900;

8 (10) "pollutant" means biological materials, chemical wastes,  
 9 graywater, hazardous substances, hazardous waste, industrial waste, incinerator  
 10 residue, medical waste, munitions, oil, radioactive materials, treated or untreated  
 11 sewage, sewage sludge, solid waste, toxic waste, and wrecked or discarded equipment,  
 12 except that "pollutant" does not include an air contaminant, ballast water, a consumer  
 13 product in consumer use, or, with respect to offloading, a product that remains capable  
 14 of being put to the beneficial use for which the product was intended;

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

20 (12) "responsible official" means

21 (A) for a corporation, a president, secretary, treasurer, or vice-  
 22 president of the corporation in charge of a principal business function, or any  
 23 other person who performs similar policy or decision-making functions for the  
 24 corporation, or a duly authorized representative of that person if the delegation  
 25 of authority to the representative is approved in advance by the department;

26 (B) for a partnership, sole proprietorship, or limited liability  
 27 company, a general partner, the proprietor, or the manager or managing  
 28 member, respectively;

29 (13) "sewage" means human body wastes and the wastes from toilets  
 30 and other receptacles intended to receive or retain human body waste;

31 (14) "treated sewage" means sewage that meets all applicable effluent

1 limitation standards and processing requirements of 33 U. S. C. 1251 - 1376 (Federal  
 2 Water Pollution Control Act), as amended, secs. 1401 - 1414 of H.R. 5666, as  
 3 incorporated by reference into P.L. 106 - 554, and regulations adopted under 33 U. S.  
 4 C. 1251 - 1376 or under secs. 1401 - 1414 of H.R. 5666, as incorporated by reference  
 5 into P.L. 106 - 554;

6 (15) "untreated sewage" means sewage that is not treated sewage;

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

9 \* **Sec. 2.** AS 46.03.760(e) is amended to read:

10 (e) A person who **falsifies a registration or report required under**  
 11 **AS 46.03.460, 46.03.475, 46.03.477, or 46.03.485 or who** violates or causes or  
 12 permits to be violated a provision of AS 46.03.250 - 46.03.314, **46.03.460 - 46.03.490,**  
 13 AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or  
 14 acceptance, or term or condition of a permit, approval, or acceptance issued under  
 15 AS 46.03.250 - 46.03.314, **46.03.460 - 46.03.490,** or AS 46.14 is liable, in a civil  
 16 action, to the state for a sum to be assessed by the court of not less than \$500 nor more  
 17 than \$100,000 for the initial violation, nor more than \$10,000 for each day after that  
 18 on which the violation continues, and that shall reflect, when applicable,

19 (1) reasonable compensation in the nature of liquidated damages for  
 20 any adverse environmental effects caused by the violation, that shall be determined by  
 21 the court according to the toxicity, degradability and dispersal characteristics of the  
 22 substance discharged, the sensitivity of the receiving environment, and the degree to  
 23 which the discharge degrades existing environmental quality; for a violation relating to  
 24 AS 46.14, the court, in making its determination under this paragraph, shall also  
 25 consider the degree to which the discharge causes harm to persons or property; this  
 26 paragraph may not be construed to limit the right of parties other than the state to  
 27 recover for personal injuries or damage to their property;

28 (2) reasonable costs incurred by the state in detection, investigation,  
 29 and attempted correction of the violation;

30 (3) the economic savings realized by the person in not complying with  
 31 the requirement for which a violation is charged; and

1 (4) the need for an enhanced civil penalty to deter future  
2 noncompliance.

3 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 **APPLICABILITY OF REPORTING REQUIREMENTS.** (a) Notwithstanding  
6 AS 46.03.460(a), enacted by sec. 1 of this Act, the first registration required under  
7 AS 46.03.460(a) for the owner or operator of a large passenger vessel that is in the marine  
8 waters of the state on June 1, 2001, is 11:59 p.m., Alaska Daylight Time, on June 3, 2001,  
9 regardless of whether the vessel has called upon or will call upon a port in the state on or after  
10 June 1, 2001.

11 (b) The information-gathering and record keeping requirements of AS 46.03.465 and  
12 46.03.470, enacted by sec. 1 of this Act, apply on and after June 1, 2001. The first report that  
13 is due under AS 46.03.475, enacted by sec. 1 of this Act, is due July 21, 2001.

14 \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
15 read:

16 **ASSESSMENT REPORT.** (a) By January 15, 2004, the Department of  
17 Environmental Conservation shall submit to the governor a report that assesses the  
18 information received by the department under AS 46.03.475 - 46.03.485 for the cruise ship  
19 seasons of 2001, 2002, and 2003 and information received by the department for the cruise  
20 ship season of 2000. The report must include

21 (1) a characterization, to the extent possible, of the risks to the marine and  
22 human environments posed by releases and offloadings from large passenger vessels;

23 (2) evaluation of the pollution control and abatement technologies on the  
24 vessels; and

25 (3) recommendations for future action by the state in relation to the matters  
26 discussed in the report.

27 (b) While producing the assessment required under this section, the department shall  
28 consult appropriate federal agencies, owners and operators of passenger vessels, and other  
29 interested parties.

30 (c) The department shall notify the legislature when the report required under this  
31 section has been submitted to the governor.

1           (d) In this section, "department" means the Department of Environmental  
2 Conservation.

3       \* **Sec. 5.** This Act takes effect June 1, 2001.