

SENATE CS FOR CS FOR HOUSE BILL NO. 260(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 6/7/01

Referred: Resources, Finance

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to marine passenger vessels; and providing for an effective date."**

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

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

4 **Article 6A. Commercial Passenger Vessel**

5 **Environmental Compliance Program.**

6 **Sec. 46.03.460. Program established.** (a) There is established the
7 commercial passenger vessel environmental compliance program providing for

8 (1) terms and conditions of vessel discharges;

9 (2) independent verification of environmental compliance; and

10 (3) allowing the department to monitor and supervise discharges from
11 commercial passenger vessels through a registration system.

12 (b) The department may adopt regulations to carry out the purposes of
13 AS 46.03.460 - 46.03.490. The department shall use negotiated regulation making
14 under AS 44.62.710 - 44.62.800, when appropriate, to develop those regulations.

15 **Sec. 46.03.461. Registration requirements.** (a) Except as provided in

1 AS 46.03.487, each year in which the owner or operator of a commercial passenger
 2 vessel intends to operate, or cause or allow to be operated, the vessel in the marine
 3 waters of the state, the owner or operator of the vessel shall register with the
 4 department. The registration shall be completed before the time any commercial
 5 passenger vessel of the owner or operator enters the marine waters of the state in that
 6 year. The registration must include the following information:

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

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

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

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

24 (5) an agreement to comply with the terms and conditions of vessel
 25 discharges specified under AS 46.03.462.

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

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

30 (d) In this section, "year" means a

31 (1) calendar year for a commercial passenger vessel that is not

1 operated by the state; and

2 (2) fiscal year, beginning July 1, for a commercial passenger vessel
3 operated by the state, including a vessel operated by the Alaska marine highway
4 system.

5 **Sec. 46.03.462. Terms and conditions of discharges.** (a) An owner or
6 operator required to register under AS 46.03.461 shall comply with either the standard
7 terms and conditions of vessel discharges specified in (b) of this section or the
8 alternative terms and conditions of vessel discharges specified in (c) of this section.

9 (b) The standard terms and conditions of vessel discharges are that the owner
10 or operator

11 (1) may not discharge untreated sewage, treated sewage, or graywater
12 except as allowed under AS 46.03.463;

13 (2) shall maintain records and provide the reports required under
14 AS 46.03.465(a);

15 (3) shall collect and test samples as required under AS 46.03.465(b)
16 and (d) and provide the reports with respect to those samples required by
17 AS 46.03.475(c);

18 (4) shall report discharges in accordance with AS 46.03.475(a);

19 (5) shall allow the department access to the vessel at the time samples
20 are taken under AS 46.03.465 for purposes of taking the samples or for purposes of
21 verifying the integrity of the sampling process; and

22 (6) shall submit records, notices, and reports to the department in
23 accordance with AS 46.03.475(b), (d), and (e).

24 (c) The department may establish alternative terms and conditions of vessel
25 discharges applicable to an owner or operator of a vessel who cannot practicably
26 comply with the standard terms and conditions of vessel discharges under (b) of this
27 section, or who wishes to use or test alternative environmental protection equipment or
28 procedures. Except as specified in alternative terms and conditions set by the
29 department under this subsection, the alternative terms and conditions of vessel
30 discharges must require compliance with the standard terms and conditions of vessel
31 discharges under (b) of this section. The department, on a case-by-case basis, may set

1 alternative terms and conditions of vessel discharges if

2 (1) the vessel owner or operator demonstrates to the department's
3 reasonable satisfaction that equivalent environmental protection can be attained
4 through other terms or conditions appropriate for the specific configuration or
5 operation of the vessel;

6 (2) the vessel owner or operator agrees to make necessary changes to
7 the vessel to allow it to comply with the standard terms and conditions of vessel
8 discharges under (b) of this section but demonstrates to the department's reasonable
9 satisfaction that additional time is needed to make the necessary changes; or

10 (3) an experimental technology or method for pollution control of a
11 discharge is being used or is proposed as one of the alternative terms and conditions of
12 vessel discharges and the department determines that the experimental technology or
13 method has a reasonable likelihood of success in providing increased protection for
14 the environment.

15 (d) Alternative terms and conditions of vessel discharges approved by the
16 department under (c) of this section may, if determined appropriate by the department,
17 include a waiver by the department of portions of the requirements of AS 46.03.463
18 and 46.03.465, for the time period that the department determines to be appropriate.

19 **Sec. 46.03.463. Prohibited discharges; limitations on discharges.** (a)
20 Except as provided in (h) of this section, a person may not discharge untreated sewage
21 from a commercial passenger vessel into the marine waters of the state.

22 (b) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a
23 person may not discharge treated sewage from a commercial passenger vessel into the
24 marine waters of the state that has suspended solids greater than 150 milligrams per
25 liter or where the geometric mean of samples from the discharge exceeds a fecal
26 coliform bacterial count of 200 colonies per 100 milliliters. Upon submission by the
27 owner or operator of a small commercial passenger vessel of a plan for interim
28 protective measures, the department shall extend the time for compliance of that vessel
29 with this subsection.

30 (c) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a
31 person may not discharge graywater from a commercial passenger vessel into the

1 marine waters of the state that has suspended solids greater than 150 milligrams per
 2 liter or where the geometric mean of samples from the discharge exceeds a fecal
 3 coliform bacterial count of 200 colonies per 100 milliliters. Upon submission by the
 4 owner or operator of a large commercial passenger vessel of a plan for interim
 5 protective measures, the department shall extend the time for compliance of that vessel
 6 with this subsection for a period of time that ends not later than January 1, 2003.
 7 Upon submission by the owner or operator of a small commercial passenger vessel of
 8 a plan for interim protective measures, the department shall extend the time for
 9 compliance of that vessel with this subsection.

10 (d) The department may by regulation establish numeric or narrative standards
 11 for other parameters for sewage and graywater discharged from commercial passenger
 12 vessels. In developing regulations under this subsection, the department shall consider
 13 the best available scientific information on the environmental effects of the regulated
 14 discharges, the materials and substances handled on the vessels, vessel movement
 15 effects, and the availability of new technologies for wastewater.

16 (e) Except as provided in (g) and (h) of this section or under AS 46.03.462(c) -
 17 (d), a person may not discharge any treated sewage or graywater from a large
 18 commercial passenger vessel into the marine waters of the state unless

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

21 (2) the vessel is at least one nautical mile from the nearest shore,
 22 except in areas designated by the department;

23 (3) the discharge complies with all applicable vessel effluent standards
 24 established under applicable federal or other law; the standards under applicable
 25 federal or other law may be adopted by regulation by the department; and

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

28 (f) Except as provided in (h) of this section, a person may not discharge
 29 sewage from a small commercial passenger vessel unless the sewage has been
 30 processed through a properly operated and properly maintained marine sanitation
 31 device.

1 (g) The provisions of (e)(1) and (e)(2) of this section do not apply to a
2 discharge allowed under federal law.

3 (h) The provisions of (a) - (f) of this section do not apply to discharges made
4 for the purpose of securing the safety of the commercial passenger vessel or saving
5 life at sea if all reasonable precautions have been taken for the purpose of preventing
6 or minimizing the discharge.

7 **Sec. 46.03.465. Information-gathering requirements.** (a) Except as
8 provided under AS 46.03.462(c) - (d), the owner or operator of a commercial
9 passenger vessel shall maintain records and, upon request of the department, provide
10 to the department a report, with copies of the records related to the period of operation
11 in the marine waters of the state, detailing the dates, times, and locations, and the
12 volumes or flow-rates of any discharge of sewage or graywater into the marine waters
13 of the state.

14 (b) Except as provided under AS 46.03.462(c) - (d), while a commercial
15 passenger vessel is present in the marine waters of the state, the owner or operator of
16 the vessel shall collect routine samples of the vessel's sewage and graywater that is
17 being discharged into the marine waters of the state with a sampling technique
18 approved by the department before the sample is collected. The number of routine
19 samples for each vessel to be collected under this subsection shall be the greater of
20 two per calendar year or the number of samples required to be collected under federal
21 statutes and regulations for sewage or graywater discharges.

22 (c) Except as provided under AS 46.03.462(c) - (d), while a commercial
23 passenger vessel is present in the marine waters of the state, the department, or an
24 independent contractor retained by the department, may collect additional samples of
25 the vessel's sewage and graywater that is being discharged into the marine waters of
26 the state.

27 (d) Except as provided under AS 46.03.462(c) - (d), the owner or operator of a
28 vessel required to collect samples under (b) of this section shall have the samples
29 tested to measure the presence of fecal coliform, ammonia, residual chlorine, pH
30 (degree of acidity or alkalinity), chemical oxygen demand (COD), biochemical
31 oxygen demand (BOD), total suspended solids, and other parameters as required by

1 the department in the samples with an analytical testing method that was approved by
 2 the department before the testing is conducted. A laboratory used for testing under
 3 this subsection shall agree not to disclose the testing results to any person other than to
 4 the department, the United States Coast Guard, or the owner or operator of the vessel.

5 (e) The owner or operator of a commercial passenger vessel shall pay for all
 6 routine sampling under (b) of this section and the testing of routine samples. The
 7 department shall pay for all additional sampling under (c) of this section and the
 8 testing of the additional samples.

9 (f) If the owner or operator of a commercial passenger vessel has, when
 10 complying with another state or federal law that requires substantially equivalent
 11 information gathering, gathered the type of information required under (a), (b), or (d)
 12 of this section, the owner or operator shall be considered to be in compliance with that
 13 subsection so long as the information is also provided to the department.

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

18 **Sec. 46.03.475. Reporting requirements.** (a) An owner or operator of a
 19 commercial passenger vessel who becomes aware of a discharge in violation of
 20 AS 46.03.463 shall immediately report that discharge to the department. There is no
 21 audit report privilege under AS 09.25.450 for this information.

22 (b) If the owner or operator of a commercial passenger vessel operating in the
 23 marine waters of the state is required by the Administrator of the Environmental
 24 Protection Agency or the secretary of the federal department in which the United
 25 States Coast Guard is operating to collect samples and test sewage or graywater and
 26 keep records of the sampling and testing, the owner or operator shall, within 21 days
 27 after the sewage or graywater is tested, submit to the department a copy of the records.

28 (c) Within 21 days after the testing required under AS 46.03.465(d), the owner
 29 or operator shall submit a written report to the department that contains the
 30 measurements required under AS 46.03.465(d) and describes the sampling technique
 31 and analytical testing methods used. The information in the report required under this

1 subsection may be provided by referring to, and including copies of, other reports that
2 are required by substantially equivalent state or federal reporting requirements.

3 (d) If the owner or operator of a commercial passenger vessel operating in the
4 marine waters of the state is required by the laws of the United States or by the laws
5 of Canada or of a province or territory of Canada to file a report or provide notice of a
6 discharge or offloading of a hazardous waste, as defined in AS 46.03.900, or of a
7 hazardous substance, as defined in AS 46.03.826, that was generated, discharged, or
8 offloaded while the vessel was operating in the marine waters of the state, the owner
9 or operator shall submit to the department a copy of the report or notice within 21 days
10 after having provided the report or notice to an agency of the government of the
11 United States or to an agency of the government of Canada or of a province or
12 territory of Canada.

13 (e) Before the operation of a commercial passenger vessel in the marine
14 waters of the state, the owner or operator of the vessel shall provide to the department
15 a plan that describes the vessel's policies and procedures for

16 (1) offloading in this state or disposing into the marine waters of the
17 state of nonhazardous solid waste other than sewage; and

18 (2) offloading of hazardous waste or a hazardous substance from the
19 vessel while it is operating in the marine waters of the state to the extent that the
20 offloading is not covered by (d) of this section.

21 (f) Upon request of the department, the information required under this section
22 shall be submitted electronically.

23 (g) This section does not relieve the owner or operator of a commercial
24 passenger vessel from other applicable reporting requirements of state or federal law.

25 **Sec. 46.03.480. Fees.** (a) There is imposed an environmental compliance fee
26 on each commercial passenger vessel operating in the marine waters of the state.

27 (b) The fee imposed by (a) of this section for all commercial passenger
28 vessels, other than vessels operated by the state, is a separate fee for each voyage
29 during which the commercial passenger vessel operates in the marine waters of the
30 state. The fee shall range from \$.70 to \$1.75 per berth, based on the overnight
31 accommodation capacity of the vessel, determined with reference to the number of

1 lower berths, according to the following categories:

2 (1) \$75 for a commercial passenger vessel with overnight
3 accommodations for at least 50 but not more than 99 passengers for hire;

4 (2) \$175 for a commercial passenger vessel with overnight
5 accommodations for at least 100 but not more than 249 passengers for hire;

6 (3) \$375 for a commercial passenger vessel with overnight
7 accommodations for at least 250 but not more than 499 passengers for hire;

8 (4) \$750 for a commercial passenger vessel with overnight
9 accommodations for at least 500 but not more than 999 passengers for hire;

10 (5) \$1,250 for a commercial passenger vessel with overnight
11 accommodations for at least 1,000 but not more than 1,499 passengers for hire;

12 (6) \$1,750 for a commercial passenger vessel with overnight
13 accommodations for at least 1,500 but not more than 1,999 passengers for hire;

14 (7) \$2,250 for a commercial passenger vessel with overnight
15 accommodations for at least 2,000 but not more than 2,499 passengers for hire;

16 (8) \$2,750 for a commercial passenger vessel with overnight
17 accommodations for at least 2,500 but not more than 2,999 passengers for hire;

18 (9) \$3,250 for a commercial passenger vessel with overnight
19 accommodations for at least 3,000 but not more than 3,499 passengers for hire;

20 (10) \$3,750 for each commercial passenger vessel with overnight
21 accommodations for 3,500 or more passengers for hire.

22 (c) The fee imposed by (a) of this section for a commercial passenger vessel
23 that is operated by this state, including a vessel operated by the Alaska marine
24 highway system, shall be determined by agreement between the commissioner of
25 environmental conservation and the commissioner of transportation and public
26 facilities and shall be based on the number of passengers for hire that the vessel is
27 authorized to carry.

28 (d) A commercial passenger vessel operating in the marine waters of the state
29 is liable for the fee imposed by this section. The fee is due and payable to the
30 department in the manner and at the times required by the department by regulation.

31 **Sec. 46.03.482. Commercial passenger vessel environmental compliance**

1 **fund.** (a) The commercial passenger vessel environmental compliance fund is created
2 in the general fund.

3 (b) The fund consists of the following, all of which shall be deposited in the
4 fund upon receipt:

5 (1) money received by the department in payment of fees under
6 AS 46.03.480;

7 (2) money received under AS 46.03.760(e) as a result of a violation
8 related to AS 46.03.460 - 46.03.490 unless the money would otherwise be deposited in
9 the oil and hazardous substance release prevention and response fund established by
10 AS 46.08.010;

11 (3) money appropriated to the fund by the legislature;

12 (4) earnings on the fund.

13 (c) The legislature may make appropriations from the fund to the department
14 to pay for the department's operational costs necessary to prepare reports that assess
15 the information received by the department for the cruise ship seasons of 2000, 2001,
16 2002, and 2003 and for the department's operational costs necessary to carry out
17 activities under AS 46.03.460 - 46.03.490 related to commercial passenger vessels.

18 (d) The unexpended and unobligated balance of an appropriation made from
19 the fund to the department for the purposes described in (c) of this section does not
20 lapse at the end of the fiscal year for which the appropriation was made and remains
21 available for expenditure in successive fiscal years.

22 (e) Nothing in this section creates a dedicated fund.

23 **Sec. 46.03.485. Recognition program.** The department may engage in
24 efforts to encourage and recognize superior environmental protection efforts made by
25 the owners or operators of commercial passenger vessels that exceed the requirements
26 established by law.

27 **Sec. 46.03.487. Exemption for vessels in innocent passage.** AS 46.03.460 -
28 46.03.490 do not apply to a commercial passenger vessel that operates in the marine
29 waters of the state solely in innocent passage. For purposes of this section, a vessel is
30 engaged in innocent passage if its operation in marine waters of the state, regardless of
31 whether the vessel is a United States or foreign-flag vessel, would constitute innocent

1 passage under the

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

4 (2) United Nations Convention on the Law of the Sea 1982,
5 December 10, 1982, United Nations Publication No. E.83.V.5, 21 I.L.M. 1261 (1982),
6 were the vessel a foreign-flag vessel.

7 **Sec. 46.03.488. Activities of the department.** The department may engage in
8 the following activities related to commercial passenger vessels operating in the
9 marine waters of the state:

10 (1) direct in-water monitoring of discharges of sewage and graywater
11 and direct monitoring of the opacity of air emissions from those vessels;

12 (2) monitoring and studying of direct or indirect environmental effects
13 of those vessels;

14 (3) comparisons of the volume, biochemical oxygen demand (BOD),
15 and total suspended solids of discharges of sewage and graywater from these vessels
16 to the estimated volume, biochemical oxygen demand (BOD), and total suspended
17 solids of similar types of discharges occurring from other point sources within the
18 state waters where commercial passenger vessels operate, including municipal sewage
19 treatment plants, industrial wastewater, recreational vessels, fishing boats, private
20 sewage systems, and commercial vessels that are not commercial passenger vessels;
21 the information required for these comparisons may be obtained by the department
22 from existing sources, such as marine surveys, treatment plant records, federal and
23 state agencies, and reports in the public domain; and

24 (4) researching ways to reduce effects of the vessels on marine waters
25 and other coastal resources.

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

27 (1) "agent for service of process" means an agent upon whom process,
28 notice, or demand required or allowed by law to be served upon the owner or operator
29 may be served;

30 (2) "commercial passenger vessel" means a vessel that carries
31 passengers for hire, including a vessel operated by the Alaska marine highway system,

1 except that "commercial passenger vessel" does not include a vessel

2 (A) operated by the state, including a vessel operated by the
3 Alaska marine highway system, that is authorized to carry fewer than 50
4 passengers for hire;

5 (B) that is not operated by the state that does not provide
6 overnight accommodations for at least 50 passengers for hire, determined with
7 reference to the number of lower berths; or

8 (C) operated by the United States or a foreign government;

9 (3) "discharge" means any release, however caused, from a
10 commercial passenger vessel, and includes any escape, disposal, spilling, leaking,
11 pumping, emitting, or emptying;

12 (4) "federal cruise ship legislation" means secs. 1401 - 1414 of H.R.
13 5666, incorporated by reference into P.L. 106 - 554, as set out in a note under 33
14 U.S.C. 1901;

15 (5) "fund" means the commercial passenger vessel environmental
16 compliance fund established under AS 46.03.482;

17 (6) "graywater" means galley, dishwasher, bath, and laundry waste
18 water;

19 (7) "large commercial passenger vessel" means a commercial
20 passenger vessel that is

21 (A) not operated by the state that provides overnight
22 accommodations for 250 or more passengers for hire, determined with
23 reference to the number of lower berths; or

24 (B) operated by the state, including a vessel operated by the
25 Alaska marine highway system, that is authorized to carry 250 or more
26 passengers for hire;

27 (8) "marine waters of the state" means all waters within the boundaries
28 of the state together with all of the waters of the Alexander Archipelago even if not
29 within the boundaries of the state;

30 (9) "offloading" means the removal of a hazardous substance,
31 hazardous waste, or nonhazardous solid waste from a commercial passenger vessel

1 onto or into a controlled storage, processing, or disposal facility or treatment works;

2 (10) "passengers for hire" means vessel passengers for whom
3 consideration is contributed as a condition of carriage on the vessel, whether directly
4 or indirectly flowing to the owner, charterer, operator, agent, or any other person
5 having an interest in the vessel;

6 (11) "sewage" means human body wastes and the wastes from toilets
7 and other receptacles intended to receive or retain human body waste;

8 (12) "small commercial passenger vessel" means a commercial
9 passenger vessel that is

10 (A) not operated by the state that provides overnight
11 accommodations for 249 or fewer passengers for hire, determined with
12 reference to the number of lower berths; or

13 (B) operated by the state, including a vessel operated by the
14 Alaska marine highway system, that is authorized to carry 249 or fewer
15 passengers for hire;

16 (13) "treated sewage" means sewage that meets all applicable effluent
17 limitation standards and processing requirements of 33 U. S. C. 1251 - 1376 (Federal
18 Water Pollution Control Act), as amended, the federal cruise ship legislation, and
19 regulations adopted under 33 U.S.C. 1251 - 1376 or under the federal cruise ship
20 legislation;

21 (14) "untreated sewage" means sewage that is not treated sewage;

22 (15) "vessel" means any form or manner of watercraft, other than a
23 seaplane on the water, whether or not capable of self-propulsion;

24 (16) "voyage" means a vessel trip to or from one or more ports of call
25 in the state with the majority of the passengers for hire completing the entire vessel
26 trip; a vessel trip involving stops at more than one port of call is considered a single
27 voyage so long as the majority of passengers for hire complete the entire trip;

28 (17) "waters of the Alexander Archipelago" means all waters under the
29 sovereignty of the United States within or near Southeast Alaska, beginning at a point
30 58 degrees 11 minutes 41 seconds North, 136 degrees 39 minutes 25 seconds West
31 (near Cape Spencer Light), thence southeasterly along a line three nautical miles

1 seaward of the baseline from which the breadth of the territorial sea is measured in the
 2 Pacific Ocean and the Dixon Entrance, except where this line intersects geodesics
 3 connecting the following five pairs of points: (A) 58 degrees 05 minutes 17 seconds
 4 North, 136 degrees 33 minutes 49 seconds West and 58 degrees 11 minutes 41
 5 seconds North, 136 degrees 39 minutes 25 seconds West (Cross Sound); (B) 56
 6 degrees 09 minutes 40 seconds North, 134 degrees 40 minutes 00 seconds West and
 7 55 degrees 49 minutes 15 seconds North, 134 degrees 17 minutes 40 seconds West
 8 (Chatham Strait); (C) 55 degrees 49 minutes 15 seconds North, 134 degrees 17
 9 minutes 40 seconds West and 55 degrees 50 minutes 30 seconds North, 133 degrees
 10 54 minutes 15 seconds West (Sumner Strait); (D) 54 degrees 41 minutes 30 seconds
 11 North, 132 degrees 01 minutes 00 seconds West and 54 degrees 51 minutes 30
 12 seconds North, 131 degrees 20 minutes 45 seconds West (Clarence Strait); (E) 54
 13 degrees 51 minutes 30 seconds North, 131 degrees 20 minutes 45 seconds West and
 14 54 degrees 46 minutes 15 seconds North, 130 degrees 52 minutes 00 seconds West
 15 (Revillagigedo Channel); the portion of each such geodesic situated beyond three
 16 nautical miles from the baseline from which the breadth of the territorial sea is
 17 measured forms the outer limit of the waters of the Alexander Archipelago in those
 18 five locations.

19 * **Sec. 2.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

20 (XX) receipts described in AS 46.03.482(b)(1) and (2) received
 21 under the commercial passenger vessel environmental compliance program;

22 * **Sec. 3.** AS 46.03.760(e) is amended to read:

23 (e) A person who violates or causes or permits to be violated a provision of
 24 AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475 [AS 46.03.250 - 46.03.314],
 25 AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or
 26 acceptance, or term or condition of a permit, approval, or acceptance issued under
 27 AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475, [AS 46.03.250 - 46.03.314] or
 28 AS 46.14 is liable, in a civil action, to the state for a sum to be assessed by the court of
 29 not less than \$500 nor more than \$100,000 for the initial violation, nor more than
 30 \$10,000 for each day after that on which the violation continues, and that shall reflect,
 31 when applicable,

1 (1) reasonable compensation in the nature of liquidated damages for
 2 any adverse environmental effects caused by the violation, that shall be determined by
 3 the court according to the toxicity, degradability and dispersal characteristics of the
 4 substance discharged, the sensitivity of the receiving environment, and the degree to
 5 which the discharge degrades existing environmental quality; for a violation relating to
 6 AS 46.14, the court, in making its determination under this paragraph, shall also
 7 consider the degree to which the discharge causes harm to persons or property; **for a**
 8 **violation of AS 46.03.463, the court, in making its determination under this**
 9 **paragraph, shall also consider the volume of the graywater or sewage discharged;**
 10 this paragraph may not be construed to limit the right of parties other than the state to
 11 recover for personal injuries or damage to their property;

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

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

16 (4) the need for an enhanced civil penalty to deter future
 17 noncompliance.

18 * **Sec. 4.** AS 46.03.790(a) is amended to read:

19 (a) Except as provided in (d) of this section, a person is guilty of a class A
 20 misdemeanor if the person with criminal negligence

21 (1) violates a provision of this chapter, AS 46.04, AS 46.09, or
 22 AS 46.14, a regulation or order of the department, or a permit, approval, or
 23 acceptance, or a term or condition of a permit, approval, or acceptance issued under
 24 this chapter, AS 46.04, AS 46.09, or AS 46.14;

25 (2) fails to provide information or provides false information required
 26 by AS **46.03.465, 46.03.475,** 46.03.755, AS 46.04, or AS 46.09, or by a regulation
 27 adopted by the department under **AS 46.03.460, 46.03.755** [AS 46.03.755], AS 46.04,
 28 or AS 46.09;

29 (3) makes a false statement or representation in an application, label,
 30 manifest, record, report, permit, or other document filed, maintained, or used for
 31 purposes of compliance with **AS 46.03.250 - 46.03.313** [AS 46.03.250 - 46.03.314]

1 applicable to hazardous wastes or a regulation adopted by the department under
2 AS 46.03.250 - 46.03.313 [AS 46.03.250 - 46.03.314];

3 (4) makes a false statement, representation, or certification in an
4 application, notice, record, report, permit, or other document filed, maintained, or used
5 for purposes of compliance with AS 46.03.460 - 46.03.475, AS 46.14, or a regulation
6 adopted under AS 46.03.460 or AS 46.14; or

7 (5) renders inaccurate a monitoring device or method required to be
8 maintained under AS 46.14, a regulation adopted under AS 46.14, or a permit issued
9 by the department or a local air quality control program under AS 46.14.

10 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 APPLICABILITY OF REPORTING REQUIREMENTS. (a) Notwithstanding
13 AS 46.03.461(a), enacted by sec. 1 of this Act, the first registration required under
14 AS 46.03.461(a) for the owner or operator of a commercial passenger vessel that is subject to
15 that section and is in the marine waters of the state on July 1, 2001, is 11:59 p.m., Alaska
16 Daylight Time, on July 3, 2001.

17 (b) The information-gathering and record keeping requirements of AS 46.03.465 and
18 46.03.470, enacted by sec. 1 of this Act, apply on and after July 1, 2001. The first report that
19 is due under AS 46.03.475(b) - (f), enacted by sec. 1 of this Act, is due August 21, 2001.

20 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: INITIAL IMPLEMENTATION OF FEES. (a) For a commercial
23 passenger vessel voyage occurring on or after July 1, 2001, and before the effective date of
24 regulations adopted by the department under AS 46.03.480, enacted by sec. 1 of this Act,
25 providing for payment of the environmental compliance fee, the environmental compliance
26 fee required by AS 46.03.480, enacted by sec. 1 of this Act, for each voyage during which the
27 commercial passenger vessel is scheduled to operate in waters of this state, is due and payable
28 to the department on or before July 31 of the calendar year in which the voyage is scheduled
29 to occur for a commercial passenger vessel not operated by the state and is due and payable to
30 the department on or before January 31 of the fiscal year in which a voyage is scheduled to
31 occur for a commercial passenger vessel operated by the state. An additional amount owed

1 under this subsection because of an unscheduled voyage, or a refund request under this
 2 subsection because of a cancelled voyage, shall be submitted to the department within 30 days
 3 after the vessel's last voyage in waters of the state in the applicable calendar or fiscal year.

4 (b) In this section, "commercial passenger vessel," "department," "voyage," and
 5 "waters" have the meanings given in AS 46.03.490, enacted by sec. 1 of this Act.

6 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
 7 read:

8 DELAYED APPLICABILITY TO SMALLER VESSELS. (a) Notwithstanding
 9 sec. 11 of this Act, AS 46.03.463(a) - (d) and 46.03.480, enacted by sec. 1 of this Act, do not
 10 apply until January 1, 2004, in the case of small commercial passenger vessels.

11 (b) In this section, "small commercial passenger vessel" has the meaning given in
 12 AS 46.03.490, enacted by sec. 1 of this Act.

13 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
 14 read:

15 ASSESSMENT REPORTS. (a) By December 1, 2002, the department shall submit to
 16 the governor a report that assesses the information received by the department for the cruise
 17 ship seasons of 2000, 2001, and 2002 related to small commercial passenger vessels. The
 18 report must include

19 (1) a characterization, to the extent possible, of the risks to the marine and
 20 human environments posed by the discharge of sewage and graywater from small commercial
 21 passenger vessels;

22 (2) evaluation of the sewage and graywater treatment systems and
 23 technologies on the vessels, including an evaluation of whether small commercial passenger
 24 vessels should be made subject to the requirements of AS 46.03.463(e) on and after January 1,
 25 2004; and

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

28 (b) By January 15, 2004, the Department of Environmental Conservation shall submit
 29 to the governor a report that assesses the information received by the department for the cruise
 30 ship seasons of 2000, 2001, 2002, and 2003 related to commercial passenger vessels. The
 31 report must include

1 (1) a characterization, to the extent possible, of the risks to the marine and
2 human environments posed by the discharge of sewage and graywater from commercial
3 passenger vessels;

4 (2) evaluation of the sewage and graywater treatment systems and
5 technologies on the vessels;

6 (3) comparisons of the volume, biochemical oxygen demand (BOD), and total
7 suspended solids of discharges of sewage and graywater from these vessels to the estimated
8 volume, biochemical oxygen demand (BOD), and total suspended solids of similar types of
9 discharges and releases occurring from other point sources within the state waters where
10 commercial passenger vessels operate, including municipal sewage treatment plants,
11 industrial wastewater, recreational vessels, fishing boats, private sewage systems, and
12 commercial vessels that are not commercial passenger vessels; the information required for
13 these comparisons may be obtained by the department from existing sources, such as marine
14 surveys, treatment plant records, federal and state agencies, and reports in the public domain;
15 and

16 (4) recommendations for future action by the state in relation to the matters
17 discussed in the report.

18 (c) While producing the assessments required under this section, the department shall
19 consult its own records, appropriate federal agencies, owners and operators of passenger and
20 other vessels, affected parties, and other appropriate sources of information.

21 (d) The department shall notify the legislature when the reports required under this
22 section have been submitted to the governor.

23 (e) In this section,

24 (1) "commercial passenger vessel" has the meaning given in AS 46.03.490,
25 enacted by sec. 1 of this Act;

26 (2) "department" means the Department of Environmental Conservation;

27 (3) "small commercial passenger vessel" has the meaning given in
28 AS 46.03.490, enacted by sec. 1 of this Act.

29 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **TRANSITION: REGULATIONS.** Notwithstanding sec. 11 of this Act, the

1 Department of Environmental Conservation may immediately proceed to adopt regulations
2 necessary to implement this Act. A regulation adopted under this section takes effect under
3 AS 44.62 (Administrative Procedure Act) but not before the effective date of the statutory
4 provision implemented by the regulation.

5 * **Sec. 10.** Section 9 of this Act takes effect immediately under AS 01.10.070(c).

6 * **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect July 1, 2001.