

**SENATE CS FOR CS FOR HOUSE BILL NO. 260(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 6/8/01  
Referred: Rules

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 calendar year in which the owner or operator of a commercial  
2 passenger vessel intends to operate, or cause or allow to be operated, the vessel in the  
3 marine 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 calendar 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 calendar  
10 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  
17 commercial passenger vessel of the owner or operator is in the marine waters of the  
18 state, and the agent must be an individual resident of this state, a domestic corporation,  
19 or a foreign corporation having a place of business in and authorized to do business in  
20 this state;

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 and after the  
24 date of registration; and

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

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

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

31 **Sec. 46.03.462. Terms and conditions of discharges.** (a) An owner or

1 operator required to register under AS 46.03.461 shall comply with either the standard  
2 terms and conditions of vessel discharges specified in (b) of this section or the  
3 alternative terms and conditions of vessel discharges specified in (c) of this section.

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

6 (1) may not discharge untreated sewage, treated sewage, or graywater  
7 in a manner that violates AS 46.03.463;

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

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

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

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

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

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

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

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

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

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

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

17 (b) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a  
 18 person may not discharge treated sewage from a commercial passenger vessel into the  
 19 marine waters of the state that has suspended solids greater than 150 milligrams per  
 20 liter or a fecal coliform count greater than 200 colonies per 100 milliliters, except that  
 21 the department may, by regulation, adopt a protocol for retesting for fecal coliform, if  
 22 this discharge limit for fecal coliform is exceeded, under which a discharger will be  
 23 considered to be in compliance with the fecal coliform limit if the geometric mean of  
 24 the fecal coliform count in the samples considered under the protocol does not exceed  
 25 200 colonies per 100 milliliters. Upon submission by the owner or operator of a small  
 26 commercial passenger vessel of a plan for interim protective measures, the department  
 27 may extend the time for compliance of that vessel with this subsection.

28 (c) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a  
 29 person may not discharge graywater from a commercial passenger vessel into the  
 30 marine waters of the state that has suspended solids greater than 150 milligrams per  
 31 liter or a fecal coliform count greater than 200 colonies per 100 milliliters, except that

1 the department may, by regulation, adopt a protocol for retesting for fecal coliform, if  
2 this discharge limit for fecal coliform is exceeded, under which a discharger will be  
3 considered to be in compliance with the fecal coliform limit if the geometric mean of  
4 the fecal coliform count in the samples considered under the protocol does not exceed  
5 200 colonies per 100 milliliters. Upon submission by the owner or operator of a large  
6 commercial passenger vessel of a plan for interim protective measures, the department  
7 may extend the time for compliance of that vessel with this subsection for a period of  
8 time that ends not later than January 1, 2003. Upon submission by the owner or  
9 operator of a small commercial passenger vessel of a plan for interim protective  
10 measures, the department may extend the time for compliance of that vessel with this  
11 subsection.

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

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

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

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

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

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

30 (f) Except as provided in (h) of this section, a person may not discharge  
31 sewage from a small commercial passenger vessel unless the sewage has been

1 processed through a properly operated and properly maintained marine sanitation  
2 device.

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

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

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

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

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

29 (d) Except as provided under AS 46.03.462(c) - (d), the owner or operator of a  
30 vessel required to collect samples under (b) of this section shall have the samples  
31 tested to measure for fecal coliform, ammonia, residual chlorine, pH (degree of acidity

1 or alkalinity), chemical oxygen demand (COD), biochemical oxygen demand (BOD),  
 2 total suspended solids, and other parameters as required by the department in the  
 3 samples with an analytical testing method that was approved by the department before  
 4 the testing is conducted. A laboratory used for testing under this subsection shall  
 5 agree not to disclose the testing results to any person other than to the department, the  
 6 United States Coast Guard, or the owner or operator of the vessel.

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

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

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

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

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

30 (c) Within 21 days after the testing required under AS 46.03.465(d), the owner  
 31 or operator shall submit a written report to the department that contains the

1 measurements required under AS 46.03.465(d) and describes the sampling technique  
2 and analytical testing methods used. The information in the report required under this  
3 subsection may be provided by referring to, and including copies of, other reports that  
4 are required by substantially equivalent state or federal reporting requirements.

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

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

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

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

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

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

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

29 (b) The fee imposed by (a) of this section for all commercial passenger vessels  
30 is a separate fee for each voyage during which the commercial passenger vessel  
31 operates in the marine waters of the state. The fee shall range from \$.70 to \$1.75 per

1 berth, based on the overnight accommodation capacity of the vessel, determined with  
2 reference to the number of lower berths, according to the following categories:

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

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

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

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

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

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

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

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

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

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

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

26 **Sec. 46.03.482. Commercial passenger vessel environmental compliance**  
27 **fund.** (a) The commercial passenger vessel environmental compliance fund is created  
28 in the general fund.

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

31 (1) money received by the department in payment of fees under

1 AS 46.03.480;

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

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

7 (4) earnings on the fund.

8 (c) The legislature may make appropriations from the fund to the department  
9 to pay for the department's operational costs necessary to prepare reports that assess  
10 the information received by the department for the cruise ship seasons of 2000, 2001,  
11 2002, and 2003 and for the department's operational costs necessary to carry out  
12 activities under AS 46.03.460 - 46.03.490 related to commercial passenger vessels.

13 (d) The unexpended and unobligated balance of an appropriation made from  
14 the fund to the department for the purposes described in (c) of this section lapses into  
15 the fund on December 31 following the end of the period for which the appropriation  
16 was made.

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

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

22 **Sec. 46.03.487. Exemption for vessels in innocent passage.** AS 46.03.460 -  
23 46.03.490 do not apply to a commercial passenger vessel that operates in the marine  
24 waters of the state solely in innocent passage. For purposes of this section, a vessel is  
25 engaged in innocent passage if its operation in marine waters of the state, regardless of  
26 whether the vessel is a United States or foreign-flag vessel, would constitute innocent  
27 passage under the

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

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

1 were the vessel a foreign-flag vessel.

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

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

7 (2) monitoring and studying of direct or indirect environmental effects  
8 of those vessels; and

9 (3) researching ways to reduce effects of the vessels on marine waters  
10 and other coastal resources.

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

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

15 (2) "commercial passenger vessel" means a vessel that carries  
16 passengers for hire, except that "commercial passenger vessel" does not include a  
17 vessel

18 (A) that does not provide overnight accommodations for at  
19 least 50 passengers for hire, determined with reference to the number of lower  
20 berths; or

21 (B) operated by the state, the United States, or a foreign  
22 government;

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

26 (4) "federal cruise ship legislation" means secs. 1401 - 1414 of H.R.  
27 5666, incorporated by reference into P.L. 106 - 554, as set out in a note under 33  
28 U.S.C. 1901;

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

31 (6) "graywater" means galley, dishwasher, bath, and laundry waste

1 water;

2 (7) "large commercial passenger vessel" means a commercial  
3 passenger vessel that provides overnight accommodations for 250 or more passengers  
4 for hire, determined with reference to the number of lower berths;

5 (8) "marine waters of the state" means all waters within the boundaries  
6 of the state together with all of the waters of the Alexander Archipelago even if not  
7 within the boundaries of the state;

8 (9) "offloading" means the removal of a hazardous substance,  
9 hazardous waste, or nonhazardous solid waste from a commercial passenger vessel  
10 onto or into a controlled storage, processing, or disposal facility or treatment works;

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

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

17 (12) "small commercial passenger vessel" means a commercial  
18 passenger vessel that provides overnight accommodations for 249 or fewer passengers  
19 for hire, determined with reference to the number of lower berths;

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

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

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

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

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

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

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

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

27 (e) A person who violates or causes or permits to be violated a provision of  
 28 AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475 [AS 46.03.250 - 46.03.314],  
 29 AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or  
 30 acceptance, or term or condition of a permit, approval, or acceptance issued under  
 31 AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475, [AS 46.03.250 - 46.03.314] or

1 AS 46.14 is liable, in a civil action, to the state for a sum to be assessed by the court of  
 2 not less than \$500 nor more than \$100,000 for the initial violation, nor more than  
 3 \$10,000 for each day after that on which the violation continues, and that shall reflect,  
 4 when applicable,

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

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

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

20 (4) the need for an enhanced civil penalty to deter future  
 21 noncompliance.

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

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

25 (1) violates a provision of this chapter, AS 46.04, AS 46.09, or  
 26 AS 46.14, a regulation or order of the department, or a permit, approval, or  
 27 acceptance, or a term or condition of a permit, approval, or acceptance issued under  
 28 this chapter, AS 46.04, AS 46.09, or AS 46.14;

29 (2) fails to provide information or provides false information required  
 30 by AS **46.03.465, 46.03.475,** 46.03.755, AS 46.04, or AS 46.09, or by a regulation  
 31 adopted by the department under **AS 46.03.460, 46.03.755** [AS 46.03.755], AS 46.04,

1 or AS 46.09;

2 (3) makes a false statement or representation in an application, label,  
3 manifest, record, report, permit, or other document filed, maintained, or used for  
4 purposes of compliance with AS 46.03.250 - 46.03.313 [AS 46.03.250 - 46.03.314]  
5 applicable to hazardous wastes or a regulation adopted by the department under  
6 AS 46.03.250 - 46.03.313 [AS 46.03.250 - 46.03.314];

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

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

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

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

21 (b) The information-gathering and record keeping requirements of AS 46.03.465 and  
22 46.03.470, enacted by sec. 1 of this Act, apply on and after July 1, 2001. The first report that  
23 is due under AS 46.03.475(b) - (f), enacted by sec. 1 of this Act, is due August 21, 2001.

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

26 TRANSITION: INITIAL IMPLEMENTATION OF FEES. (a) For a commercial  
27 passenger vessel voyage occurring on or after July 1, 2001, and before the effective date of  
28 regulations adopted by the department under AS 46.03.480, enacted by sec. 1 of this Act,  
29 providing for payment of the environmental compliance fee, the environmental compliance  
30 fee required by AS 46.03.480, enacted by sec. 1 of this Act, for each voyage during which the  
31 commercial passenger vessel is scheduled to operate in the marine waters of this state, is due

1 and payable to the department on or before July 31 of the calendar year in which the voyage is  
2 scheduled to occur. An additional amount owed under this subsection because of an  
3 unscheduled voyage, or a refund request under this subsection because of a cancelled voyage,  
4 shall be submitted to the department within 30 days after the vessel's last voyage in the marine  
5 waters of the state in that calendar year.

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

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

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

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

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

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

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

25 (2) evaluation of the sewage and graywater treatment systems and  
26 technologies on the vessels, including an evaluation of whether small commercial passenger  
27 vessels should be made subject to the requirements of AS 46.03.463(e) on and after January 1,  
28 2004; and

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

31 (b) By January 15, 2004, the Department of Environmental Conservation shall submit

1 to the governor a report that assesses the information received by the department for the cruise  
2 ship seasons of 2000, 2001, 2002, and 2003 related to commercial passenger vessels. The  
3 report must include

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

7 (2) evaluation of the sewage and graywater treatment systems and  
8 technologies on the vessels; and

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

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

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

16 (e) In this section,

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

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

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

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

24 **TRANSITION: REGULATIONS.** Notwithstanding sec. 11 of this Act, the  
25 Department of Environmental Conservation may immediately proceed to adopt regulations  
26 necessary to implement this Act. A regulation adopted under this section takes effect under  
27 AS 44.62 (Administrative Procedure Act) but not before the effective date of the statutory  
28 provision implemented by the regulation.

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

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