

CS FOR HOUSE BILL NO. 260(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/1/01

Offered: 4/29/01

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act requiring the owners or operators of certain commercial passenger vessels**
2 **operating in the marine waters of the state to register with the Department of**
3 **Environmental Conservation; establishing information-gathering, record keeping, and**
4 **reporting requirements relating to the vessels' graywater, sewage, hazardous substances,**
5 **hazardous wastes, solid wastes, and other pollutants; establishing certain sampling,**
6 **testing, reporting, and record-keeping requirements as terms and conditions of**
7 **permitting discharges from the vessels; authorizing the Department of Environmental**
8 **Conservation to provide for independent verification of compliance by the vessels, and**
9 **to monitor and supervise discharges from the vessels; prohibiting the discharge of**
10 **untreated sewage from the vessels; placing limits on discharges of treated sewage and**
11 **graywater from the vessels; providing that there is no audit report privilege for**
12 **complying with a requirement that the owner or operator of a commercial passenger**

1 vessel must report discharges of sewage or graywater that violate laws; establishing a
 2 fee, ranging from \$.70 - \$1.75 per berth, with a maximum of \$3,750 per voyage, on
 3 commercial passenger vessels that are not operated by the state for each voyage during
 4 which the vessels operate in the marine waters of the state based on the overnight
 5 accommodation capacity of the vessels determined with reference to the number of
 6 lower berths; providing for a fee for vessels operated by the state to be determined by an
 7 agreement between the commissioner of environmental conservation and the
 8 commissioner of transportation and public facilities; authorizing the Department of
 9 Environmental Conservation to research, monitor, and study discharges and releases
 10 from commercial passenger vessels, including the opacity of air emissions from the
 11 vessels; establishing penalties for failure to comply with certain laws relating to the
 12 vessels; authorizing the Department of Environmental Conservation to encourage and
 13 recognize superior environmental protection efforts related to commercial passenger
 14 vessels; authorizing the Department of Environmental Conservation to adopt
 15 regulations to implement laws relating to commercial passenger vessels and directing
 16 the department to use negotiated regulation procedures, when appropriate, to develop
 17 the regulations; establishing a commercial passenger vessel coastal protection fund;
 18 requiring a report from the Department of Environmental Conservation concerning
 19 matters relating to the vessels; and providing for an effective date."

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

21 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
 22 to read:

23 FINDINGS. The legislature finds that

24 (1) federal and international laws pertaining to regulation of commercial

1 passenger vessels have been deficient and inadequately enforced in the past;

2 (2) although federal law regulating commercial passenger vessels was recently
3 enhanced, it still does not require reporting to the state or provide for direct enforcement by
4 the state;

5 (3) although the state should work collaboratively with the federal government
6 and industry, it should not be dependent on the federal government for information regarding
7 commercial passenger vessels operating in waters of this state or for enforcement for
8 environmental violations by commercial passenger vessels;

9 (4) in order to properly manage its resources and provide for sustainable use
10 of the resources, the state must know the quantity, composition, location, and frequency of
11 discharges of graywater and sewage from commercial passenger vessels into the state's water;

12 (5) it is necessary to monitor the discharges of graywater and sewage from
13 commercial passenger vessels traveling in state waters, and commercial passenger vessels
14 should bear the requisite costs of the monitoring.

15 * **Sec. 2.** AS 46.03 is amended by adding new sections to read:

16 **Article 6A. Alaska Commercial Passenger Vessel Coastal Protection Program.**

17 **Sec. 46.03.460. Program established.** (a) To protect the coastal areas of this
18 state, there is established the Alaska commercial passenger vessel coastal protection
19 program providing for

20 (1) terms and conditions of permitting discharges;

21 (2) independent verification of compliance; and

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

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

27 **Sec. 46.03.461. Registration requirements.** (a) Except as provided in
28 AS 46.03.487, each calendar year in which the owner or operator of a commercial
29 passenger vessel intends to operate, or cause or allow to be operated, the vessel in the
30 marine waters of the state, the owner or operator of the vessel shall register with the
31 department. The registration shall be completed before the time any commercial

1 passenger vessel of the owner or operator enters the marine waters of the state in that
2 calendar year. The registration must include the following information:

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

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

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

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

21 (5) an agreement to comply with the terms and conditions of
22 permitting discharges specified under AS 46.03.462.

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

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

27 **Sec. 46.03.462. Terms and Conditions of Permitting Discharges.** (a) An
28 owner or operator required to register under AS 46.03.461 shall comply with either the
29 standard terms and conditions of permitting discharges specified in (b) of this section
30 or the alternative terms and conditions of permitting discharges specified in (c) of this
31 section.

1 (b) The standard terms and conditions of permitting discharges are that the
2 owner or operator

3 (1) may not discharge untreated sewage, treated sewage, or graywater
4 except as permitted under AS 46.03.463;

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

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

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

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

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

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

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

30 (2) the vessel owner or operator agrees to make necessary changes to
31 the vessel to allow it to comply with the standard terms and conditions of permitting

1 discharges under (b) of this section but demonstrates to the department's reasonable
2 satisfaction that additional time is needed to make the necessary changes; or

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

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

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

15 (b) Except as provided in (g) of this section or under AS 46.03.462(c) - (d), a
16 person may not discharge treated sewage from a commercial passenger vessel into the
17 marine waters of the state that has a fecal coliform bacterial count greater than 200
18 colonies per 100 milliliters or suspended solids greater than 150 milligrams per liter.

19 (c) Except as provided in (g) of this section or under AS 46.03.462(c) - (d), a
20 person may not discharge graywater from a commercial passenger vessel into the
21 marine waters of the state that has a fecal coliform bacterial count greater than 200
22 colonies per 100 milliliters or suspended solids greater than 150 milligrams per liter.
23 Upon submission by a vessel owner or operator of a plan for interim protective
24 measures, the department shall extend the time for compliance with this subsection for
25 a period of time that ends not later than January 1, 2003.

26 (d) The department may by regulation establish numeric or narrative standards
27 for other parameters for treated sewage and graywater. In developing regulations
28 under this subsection, the department shall consider the best available scientific
29 information on the environmental effects of the regulated discharges, vessel movement
30 effects, and the availability of new technologies for wastewater.

31 (e) Except as provided in (f) and (g) of this section or under AS 46.03.462(c) -

1 (d), a person may not discharge any treated sewage or graywater from a commercial
2 passenger vessel into the marine waters of the state unless

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

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

7 (3) the discharge complies with all applicable vessel effluent standards
8 established under the federal cruise ship legislation and any other applicable law; the
9 standards under the federal cruise ship legislation and other applicable law may be
10 adopted by regulation by the department; and

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

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

15 (g) The provisions of (a) - (e) of this section do not apply to discharges made
16 for the purpose of securing the safety of the commercial passenger vessel or saving
17 life at sea if all reasonable precautions have been taken for the purpose of preventing
18 or minimizing the discharge.

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

26 (b) Except as provided under AS 46.03.462(c) - (d), while a commercial
27 passenger vessel is present in the marine waters of the state, the owner or operator of
28 the vessel shall collect routine samples of the vessel's treated sewage and graywater
29 that is being discharged into the marine waters of the state

30 (1) with a sampling technique approved by the department before the
31 sample is collected; the number of routine samples for each vessel to be collected

1 under this subsection shall be the greater of two per calendar year or the number of
 2 samples required to be collected under federal statutes and regulations for treated
 3 sewage or graywater discharge;

4 (2) no less frequently than samples are required to be collected under
 5 federal statutes and regulations for treated sewage or graywater discharges.

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

11 (d) Except as provided under AS 46.03.462(c) - (d), the owner or operator of a
 12 vessel required to collect samples under (b) of this section shall have the samples
 13 tested to measure fecal coliform, ammonia, residual chlorine, pH (degree of acidity or
 14 alkalinity), chemical oxygen demand (COD), biochemical oxygen demand (BOD),
 15 total suspended solids, and other pollutants as required by the department in the
 16 samples with an analytical testing method that was approved by the department before
 17 the testing is conducted. A laboratory used for testing under this subsection shall
 18 agree not to disclose the testing results to any person other than to the department, the
 19 United States Coast Guard, or the owner or operator of the vessel.

20 (e) The owner or operator of a commercial passenger vessel shall pay for all
 21 routine sampling under (b) of this section and the testing of routine samples. The
 22 department shall pay for all additional sampling under (c) of this section and the
 23 testing of the additional samples.

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

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

1 was gathered.

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

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

12 (c) Within 21 days after the testing required under AS 46.03.465(d), the owner
13 or operator shall submit a written report to the department that contains the
14 measurements required under AS 46.03.465(d) and describes the sampling technique
15 and analytical testing methods used. The information in the report required under this
16 subsection may be provided by referring to, and including copies of, other reports that
17 are required by substantially equivalent state or federal reporting requirements.

18 (d) If the owner or operator of a commercial passenger vessel operating in the
19 marine waters of the state is required by the laws of the United States or by the laws
20 of Canada or of a province or territory of Canada to file a report or provide notice of a
21 discharge or offloading of a hazardous waste, as defined in AS 46.03.900, or of a
22 hazardous substance, as defined in AS 46.03.826, that was generated, discharged, or
23 offloaded while the vessel was operating in the marine waters of the state, the owner
24 or operator shall submit to the department a copy of the report or notice within 21 days
25 after having provided the report or notice to an agency of the government of the
26 United States or to an agency of the government of Canada or of a province or
27 territory of Canada.

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

31 (1) offloading in this state of nonhazardous solid waste; and

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

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

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

8 **Sec. 46.03.480. Fees.** (a) There is imposed a coastal protection fee on each
 9 commercial passenger vessel operating in the marine waters of the state.

10 (b) The fee imposed by (a) of this section for all commercial passenger
 11 vessels, other than vessels operated by the state, is a separate fee for each voyage
 12 during which the commercial passenger vessel operates in the marine waters of the
 13 state. The fee shall range from \$.70 to \$1.75 per berth, based on the overnight
 14 accommodation capacity of the vessel, determined with reference to the number of
 15 lower berths, according to the following categories:

16 (1) \$75 for a commercial passenger vessel with overnight
 17 accommodations for at least 50 but not more than 99 passengers for hire;

18 (2) \$175 for a commercial passenger vessel with overnight
 19 accommodations for at least 100 but not more than 249 passengers for hire;

20 (3) \$375 for a commercial passenger vessel with overnight
 21 accommodations for at least 250 but not more than 499 passengers for hire;

22 (4) \$750 for a commercial passenger vessel with overnight
 23 accommodations for at least 500 but not more than 999 passengers for hire;

24 (5) \$1,250 for a commercial passenger vessel with overnight
 25 accommodations for at least 1,000 but not more than 1,499 passengers for hire;

26 (6) \$1,750 for a commercial passenger vessel with overnight
 27 accommodations for at least 1,500 but not more than 1,999 passengers for hire;

28 (7) \$2,250 for a commercial passenger vessel with overnight
 29 accommodations for at least 2,000 but not more than 2,499 passengers for hire;

30 (8) \$2,750 for a commercial passenger vessel with overnight
 31 accommodations for at least 2,500 but not more than 2,999 passengers for hire;

1 (9) \$3,250 for a commercial passenger vessel with overnight
2 accommodations for at least 3,000 but not more than 3,499 passengers for hire;

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

5 (c) The fee imposed by (a) of this section for a commercial passenger vessel
6 that is operated by this state shall be determined by agreement between the
7 commissioner of environmental conservation and the commissioner of transportation
8 and public facilities.

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

12 **Sec. 46.03.482. Alaska commercial passenger vessel coastal protection**
13 **fund.** (a) The Alaska commercial passenger vessel coastal protection fund is created
14 in the general fund.

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

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

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

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

24 (4) earnings on the fund.

25 (c) The legislature may make appropriations from the fund to the department
26 to pay for the department's operational and administrative costs necessary to prepare a
27 report that assesses the information received by the department for the cruise ship
28 seasons of 2001, 2002, and 2003 and the information received by the department for
29 the cruise ship season of 2000 and for the department's operational and administrative
30 costs necessary to carry out activities under AS 46.03.460 - 46.03.490 relating to
31 commercial passenger vessels.

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

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

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

10 **Sec. 46.03.487. Exemption for vessels in innocent passage.** AS 46.03.460 -
 11 46.03.490 do not apply to a commercial passenger vessel that operates in the marine
 12 waters of the state solely in innocent passage. For purposes of this section, a vessel is
 13 engaged in innocent passage if its operation in marine waters of the state, regardless of
 14 whether the vessel is a United States or foreign-flag vessel, would constitute innocent
 15 passage under the

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

18 (2) United Nations Convention on the Law of the Sea 1982,
 19 December 10, 1982, United Nations Publication No. E.83.V.5., 21 I.L.M. 1261
 20 (1982), were the vessel a foreign-flag vessel.

21 **Sec. 46.03.488. Activities of the department.** The department may engage in
 22 the following activities relating to commercial passenger vessels operating in the
 23 marine waters of the state:

24 (1) direct in-water monitoring of discharges or releases of sewage and
 25 graywater and direct monitoring of the opacity of air emissions from those vessels;

26 (2) monitoring and studying of direct or indirect environmental effects
 27 of those vessels; and

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

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

31 (1) "agent for service of process" means an agent upon whom process,

1 notice, or demand required or permitted by law to be served upon the owner or
2 operator may be served;

3 (2) "commercial passenger vessel" means a vessel that carries
4 passengers for hire except that "commercial passenger vessel" does not include a
5 vessel

6 (A) authorized to carry fewer than 50 passengers;

7 (B) that does not provide overnight accommodations for at
8 least 50 passengers for hire, determined with reference to the number of lower
9 berths; or

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

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

14 (4) "federal cruise ship legislation" means secs. 1401 - 1414 of H.R.
15 5666, as incorporated by reference into P.L. 106 - 554;

16 (5) "fund" means the Alaska commercial passenger vessel coastal
17 protection fund established under AS 46.03.482;

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

20 (7) "marine waters of the state" means all waters within the boundaries
21 of the state together with all of the waters of the Alexander Archipelago even if not
22 within the boundaries of the state;

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

26 (9) "passengers for hire" means vessel passengers for whom
27 consideration is contributed as a condition of carriage on the vessel, whether directly
28 or indirectly flowing to the owner, charterer, operator, agent, or any other person
29 having an interest in the vessel;

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

1 (11) "treated sewage" means sewage that meets all applicable effluent
2 limitation standards and processing requirements of 33 U. S. C. 1251 - 1376 (Federal
3 Water Pollution Control Act), as amended, the federal cruise ship legislation, and
4 regulations adopted under 33 U.S.C. 1251 - 1376 or under the federal cruise ship
5 legislation;

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

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

9 (14) "voyage" means a vessel trip to or from one or more ports of call
10 in the state with the majority of the passengers for hire completing the entire vessel
11 trip; a vessel trip involving stops at more than one port of call is considered a single
12 voyage so long as the majority of passengers for hire complete the entire trip;

13 (15) "waters of the Alexander Archipelago" means all waters under the
14 sovereignty of the United States within or near Southeast Alaska, beginning at a point
15 58 degrees 11 minutes 41 seconds North, 136 degrees 39 minutes 25 seconds West
16 (near Cape Spencer Light), thence southeasterly along a line three nautical miles
17 seaward of the baseline from which the breadth of the territorial sea is measured in the
18 Pacific Ocean and the Dixon Entrance, except where this line intersects geodesics
19 connecting the following five pairs of points: (A) 58 degrees 05 minutes 17 seconds
20 North, 136 degrees 33 minutes 49 seconds West and 58 degrees 11 minutes 41
21 seconds North, 136 degrees 39 minutes 25 seconds West (Cross Sound); (B) 56
22 degrees 09 minutes 40 seconds North, 134 degrees 40 minutes 00 seconds West and
23 55 degrees 49 minutes 15 seconds North, 134 degrees 17 minutes 40 seconds West
24 (Chatham Strait); (C) 55 degrees 49 minutes 15 seconds North, 134 degrees 17
25 minutes 40 seconds West and 55 degrees 50 minutes 30 seconds North, 133 degrees
26 54 minutes 15 seconds West (Sumner Strait); (D) 54 degrees 41 minutes 30 seconds
27 North, 132 degrees 01 minutes 00 seconds West and 54 degrees 51 minutes 30
28 seconds North, 131 degrees 20 minutes 45 seconds West (Clarence Strait); (E) 54
29 degrees 51 minutes 30 seconds North, 131 degrees 20 minutes 45 seconds West and
30 54 degrees 46 minutes 15 seconds North, 130 degrees 52 minutes 00 seconds West
31 (Revillagigedo Channel); the portion of each such geodesic situated beyond three

1 nautical miles from the baseline from which the breadth of the territorial sea is
 2 measured forms the outer limit of the waters of the Alexander Archipelago in those
 3 five locations.

4 * **Sec. 3.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

5 (XX) receipts described in AS 46.03.482(b)(1) and (2) received
 6 under the Alaska commercial passenger vessel coastal protection program;

7 * **Sec. 4.** AS 46.03.760(e) is amended to read:

8 (e) A person who violates or causes or permits to be violated a provision of
 9 **AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475** [AS 46.03.250 - 46.03.314],
 10 AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or
 11 acceptance, or term or condition of a permit, approval, or acceptance issued under
 12 **AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475**, [AS 46.03.250 - 46.03.314] or
 13 AS 46.14 is liable, in a civil action, to the state for a sum to be assessed by the court of
 14 not less than \$500 nor more than \$100,000 for the initial violation, nor more than
 15 \$10,000 for each day after that on which the violation continues, and that shall reflect,
 16 when applicable,

17 (1) reasonable compensation in the nature of liquidated damages for
 18 any adverse environmental effects caused by the violation, that shall be determined by
 19 the court according to the toxicity, degradability and dispersal characteristics of the
 20 substance discharged, the sensitivity of the receiving environment, and the degree to
 21 which the discharge degrades existing environmental quality; for a violation relating to
 22 AS 46.14, the court, in making its determination under this paragraph, shall also
 23 consider the degree to which the discharge causes harm to persons or property; **for a**
 24 **violation of AS 46.03.463, the court, in making its determination under this**
 25 **paragraph, shall also consider the volume of the graywater or sewage discharged;**
 26 this 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. 5.** AS 46.03.790(a) is amended to read:

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

6 (1) violates a provision of this chapter, AS 46.04, AS 46.09, or
7 AS 46.14, a regulation or order of the department, or a permit, approval, or
8 acceptance, or a term or condition of a permit, approval, or acceptance issued under
9 this chapter, AS 46.04, AS 46.09, or AS 46.14;

10 (2) fails to provide information or provides false information required
11 by AS 46.03.465, 46.03.475, 46.03.755, AS 46.04, or AS 46.09, or by a regulation
12 adopted by the department under AS 46.03.460, 46.03.755 [AS 46.03.755], AS 46.04,
13 or AS 46.09;

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

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

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

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

28 APPLICABILITY OF REPORTING REQUIREMENTS. (a) Notwithstanding
29 AS 46.03.461(a), enacted by sec. 2 of this Act, the first registration required under
30 AS 46.03.461(a) for the owner or operator of a commercial passenger vessel that is in the
31 marine waters of the state on July 1, 2001, is 11:59 p.m., Alaska Daylight Time, on July 3,

1 2001, regardless of whether the vessel has called upon or will call upon a port in the state on
2 or after July 1, 2001.

3 (b) The information-gathering and record keeping requirements of AS 46.03.465 and
4 46.03.470, enacted by sec. 2 of this Act, apply on and after July 1, 2001. The first report that
5 is due under AS 46.03.475(b) - (f), enacted by sec. 2 of this Act, is due August 21, 2001.

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

8 **TRANSITION: INITIAL IMPLEMENTATION OF FEES.** (a) For a commercial
9 passenger vessel voyage occurring on or after July 1, 2001, and before the effective date of
10 regulations adopted by the department under AS 46.03.480, enacted by sec. 2 of this Act,
11 providing for payment of the coastal protection fee, the coastal protection fee required by
12 AS 46.03.480, enacted by sec. 2 of this Act, for each voyage during which the commercial
13 passenger vessel is scheduled to operate in waters of this state, is due and payable to the
14 department on or before July 31 of the calendar year in which the voyage is scheduled to
15 occur. An additional amount owed under this subsection because of an unscheduled voyage,
16 or a refund request under this subsection because of a cancelled voyage, shall be submitted to
17 the department within 30 days after the vessel's last voyage in waters of the state in that
18 calendar year.

19 (b) In this section, "commercial passenger vessel," "department," "voyage," and
20 "waters" have the meaning given in AS 46.03.490, enacted by sec. 2 of this Act.

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

23 **DELAYED APPLICABILITY TO SMALLER VESSELS.** (a) Notwithstanding sec.
24 12 of this Act, AS 46.03.461 - 46.03.490, enacted by sec. 2 of this Act, do not apply until
25 January 1, 2004, in the case of commercial passenger vessels with an overnight
26 accommodation capacity of 249 or fewer, determined by the number of lower berths available
27 for passengers for hire.

28 (b) In this section, "commercial passenger vessel" and "passengers for hire" have the
29 meanings given in AS 46.03.490, enacted by sec. 2 of this Act.

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

1 ASSESSMENT REPORT. (a) By January 15, 2004, the Department of
2 Environmental Conservation shall submit to the governor a report that assesses the
3 information received by the department for the cruise ship seasons of 2001, 2002, and 2003
4 and information received by the department for the cruise ship season of 2000. The report
5 must include

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

9 (2) evaluation of the sewage and graywater treatment systems and
10 technologies on the vessels; and

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

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

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

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

20 * **Sec. 10.** The uncodified law of the state of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: REGULATIONS. Notwithstanding sec. 12 of this Act, the
23 Department of Environmental Conservation may immediately proceed to adopt regulations
24 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative
25 Procedure Act) but not before the effective date of the statutory provision.

26 * **Sec. 11.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).

27 * **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect July 1, 2001.