

**HOUSE BILL NO. 399**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

**BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 1/28/04**

**Referred: Resources, Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to certain fees or other monetary charges of the Department of**  
2 **Environmental Conservation; relating to action against Department of Environmental**  
3 **Conservation permits and other authorizations for failure to pay a monetary charge;**  
4 **and providing for an effective date."**

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

6 \* **Section 1.** AS 44.46.025(a) is amended to read:

7 (a) Except as otherwise provided in AS 37.10.050 - 37.10.056, the Department  
8 of Environmental Conservation may adopt regulations that prescribe reasonable fees,  
9 and establish procedures for the collection of those fees, to cover the applicable direct  
10 costs [, NOT INCLUDING TRAVEL EXCEPT IN THE CASE OF A DESIGNATED  
11 REGULATORY SERVICE, AS THAT TERM IS DEFINED IN AS 37.10.058,] of  
12 inspections, permit preparation and administration, plan review and approval, and  
13 other services provided by the department relating to

14 (1) agriculture and animals under AS 03.05; food, drugs, and

1 cosmetics under AS 17.20; and public accommodations and facilities under AS 18.35;

2 (2) certificates of inspection for motor vehicles under AS 46.14.400 or  
3 46.14.510;

4 (3) sewerage system and treatment works and wastewater disposal  
5 systems, and drinking water systems, under AS 46.03.720;

6 (4) water and wastewater operator training under AS 46.30;

7 (5) control of solid waste facilities under AS 46.03.020(10) and  
8 46.03.100;

9 (6) certification of laboratories conducting environmental analyses of  
10 public drinking water systems or of oil or hazardous substances, or conducting other  
11 analyses required by the department;

12 (7) certification of federal permits or authorizations under 33 U.S.C.  
13 1341 (sec. 401, Clean Water Act);

14 **(8) pesticides under AS 46.03.320 and 46.03.330;**

15 **(9) the state seafood and food safety laboratory;**

16 **(10) oil discharge prevention and contingency plans for noncrude**  
17 **oil operations under AS 46.04.030 and 46.04.055; and**

18 **(11) proof of financial responsibility for noncrude oil operations**  
19 **under AS 46.04.040 and 46.04.055.**

20 \* **Sec. 2.** AS 44.46.025 is amended by adding new subsections to read:

21 (e) The department may include travel costs in the fees adopted by regulation  
22 under (a) of this section.

23 (f) In this section, unless the context otherwise requires,

24 (1) "exploration facility" has the meaning given in AS 46.04.900;

25 (2) "noncrude oil operations"

26 (A) means an oil terminal facility, oil barge, tank vessel,  
27 nontank vessel, or railroad tank car, that stores or transports petroleum  
28 products derived from crude oil;

29 (B) does not include an exploration facility or production  
30 facility, or a tank vessel, oil barge, oil terminal facility, pipeline, or railroad  
31 tank car, that stores or transports crude oil;

- 1 (3) "nontank vessel" has the meaning given in AS 46.04.900;  
 2 (4) "oil barge" has the meaning given in AS 46.04.900;  
 3 (5) "oil terminal facility" has the meaning given in AS 46.04.900;  
 4 (6) "pipeline" has the meaning given in AS 46.04.900;  
 5 (7) "production facility" has the meaning given in AS 46.04.900;  
 6 (8) "railroad tank car" has the meaning given in AS 46.04.900;  
 7 (9) "tank vessel" has the meaning given in AS 46.04.900.

8 \* **Sec. 3.** AS 44.46 is amended by adding a new section to read:

9 **Sec. 44.46.027. Late fees; action against department authorization.** (a)

10 The Department of Environmental Conservation may assess late fees against a person  
 11 who has failed to pay a monetary charge due to the department. The late fees must be  
 12 assessed on a monthly basis until the monetary charge is paid.

13 (b) The department shall adopt regulations to implement this section,  
 14 including regulations that prescribe fixed late fees to be assessed under this section.  
 15 Late fees assessed under this section may not exceed the estimated average reasonable  
 16 costs of the department in collecting unpaid and late monetary charges. The  
 17 department shall periodically review regulations adopted under this section, to identify  
 18 any changes in the average actual cost of collecting unpaid and late monetary charges  
 19 and, by regulation, adjust the late fees accordingly.

20 (c) If a person has failed to pay a monetary charge due to the department, the  
 21 department may, after 30 days' written notice to the person, revoke or refuse to issue,  
 22 modify, amend, or renew a permit, an approval, or any other department authorization  
 23 until payment of the monetary charge is made to the department.

24 (d) Application of this section does not preclude the application of any other  
 25 statutory provision or rule of law, including recovery of lost potential earnings on  
 26 money owed to the department.

27 (e) In this section, "monetary charge" includes a fee, fine, penalty, cost, or any  
 28 other monetary assessment due to the department.

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

31 **APPLICABILITY.** (a) Except as provided in (b) of this section, this Act applies to

1 monetary charges due on or after the effective date of secs. 1 - 3 of this Act and to a permit,  
2 an approval, or other authorization issued by the Department of Environmental Conservation  
3 on or after the effective date of secs. 1 - 3 of this Act.

4 (b) If the Department of Environmental Conservation issued a permit, an approval, or  
5 other authorization before the effective date of secs. 1 - 3 of this Act that requires that fees be  
6 paid after the effective date of secs. 1 - 3 of this Act, the department may assess late fees  
7 under AS 44.46.027(a) and (b), enacted by sec. 3 of this Act, for any delinquency in those  
8 fees occurring on or after the effective date of secs. 1 - 3 of this Act.

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

11 TRANSITION: REGULATIONS. Notwithstanding sec. 7 of this Act, the  
12 Department of Environmental Conservation and the Department of Natural Resources may  
13 proceed to adopt regulations necessary to implement their respective provisions of this Act.  
14 The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
15 effective date of the statutory changes.

16 \* **Sec. 6.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).

17 \* **Sec. 7.** Except as provided in sec. 6 of this Act, this Act takes effect July 1, 2004.