

SENATE BILL NO. 361

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Introduced: 3/4/04

Referred: Community and Regional Affairs, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to discharges from small commercial passenger vessels; and providing**
2 **for an effective date."**

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

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

6 LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that

7 (1) the Department of Environmental Conservation was required under sec. 8,
8 ch. 1, FSSLA 2001, to submit a report to the governor recommending whether small
9 commercial passenger vessels should remain in the commercial passenger vessel
10 environmental compliance program; due to concerns regarding discharges while vessels are
11 stationary in port or at anchorage, the department recommended that small commercial
12 passenger vessels remain in the commercial passenger vessel environmental compliance
13 program;

14 (2) small commercial passenger vessels built after December 31, 2003, can be

1 designed, constructed, and equipped to fully comply with the water discharge standards in
2 AS 46.03.460 - 46.03.490; and

3 (3) older small commercial passenger vessels, built before January 1, 2004,
4 cannot comply with AS 46.03.462(c) and 46.03.463(b) and (c) due to limitations of maritime
5 construction, United States Coast Guard stability restrictions, and licensing requirements;
6 therefore a different regulatory scheme should be devised for this category of small
7 commercial passenger vessels.

8 (b) It is the intent of this Act to create a regulatory system that allows older small
9 commercial passenger vessels to continue to operate in Alaska waters, while taking steps to
10 minimize discharges and harm to the marine environment from vessel activities.

11 * **Sec. 2.** AS 46.03.462(a) is amended to read:

12 (a) An owner or operator required to register under AS 46.03.461 shall comply
13 with [EITHER] the standard terms and conditions of vessel discharges specified in (b)
14 of this section, [OR] the alternative terms and conditions of vessel discharges specified
15 in (c) of this section, **or the alternative terms and conditions included in the plan**
16 **approved by the department under (e) of this section.**

17 * **Sec. 3.** AS 46.03.462(a) is amended to read:

18 (a) An owner or operator required to register under AS 46.03.461 shall comply
19 with **either** the standard terms and conditions of vessel discharges specified in (b) of
20 this section **or** [,] the alternative terms and conditions of vessel discharges specified in
21 (c) of this section [, OR THE ALTERNATIVE TERMS AND CONDITIONS
22 INCLUDED IN THE PLAN APPROVED BY THE DEPARTMENT UNDER (e) OF
23 THIS SECTION].

24 * **Sec. 4.** AS 46.03.462(d) is amended to read:

25 (d) Alternative terms and conditions of vessel discharges approved by the
26 department under (c) of this section may, if determined appropriate by the department,
27 include a waiver by the department of portions of the requirements of AS 46.03.463
28 and 46.03.465, for the time period that the department determines to be appropriate.
29 **Alternative terms and conditions of vessel discharges approved by the**
30 **department under (e) of this section may, if determined appropriate by the**
31 **department, include a waiver by the department of portions of the requirements**

1 **of AS 46.03.463 for the time period for which the plan submitted under (e) of this**
 2 **section is approved.**

3 * **Sec. 5.** AS 46.03.462(d) is amended to read:

4 (d) Alternative terms and conditions of vessel discharges approved by the
 5 department under (c) of this section may, if determined appropriate by the department,
 6 include a waiver by the department of portions of the requirements of AS 46.03.463
 7 and 46.03.465, for the time period that the department determines to be appropriate.
 8 [ALTERNATIVE TERMS AND CONDITIONS OF VESSEL DISCHARGES
 9 APPROVED BY THE DEPARTMENT UNDER (e) OF THIS SECTION MAY, IF
 10 DETERMINED APPROPRIATE BY THE DEPARTMENT, INCLUDE A WAIVER
 11 BY THE DEPARTMENT OF PORTIONS OF THE REQUIREMENTS OF
 12 AS 46.03.463 FOR THE TIME PERIOD FOR WHICH THE PLAN SUBMITTED
 13 UNDER (e) OF THIS SECTION IS APPROVED.]

14 * **Sec. 6.** AS 46.03.462 is amended by adding new subsections to read:

15 (e) The owner or operator of a small commercial passenger vessel may submit
 16 a plan for alternative terms and conditions of vessel discharges if the keel of the vessel
 17 was laid before January 1, 2004. Except as provided in (f) of this section, the
 18 department shall approve the plan for a three-year period if the department finds that
 19 the alternative terms and conditions in the plan incorporate the best management
 20 practices for protecting the environment to the maximum extent feasible. The
 21 department may adopt regulations to implement this subsection but may not require an
 22 owner or operator to retrofit a vessel solely for the purpose of waste treatment if the
 23 retrofitting requires additional stability testing or relicensing by the United States
 24 Coast Guard. In this subsection, "best management practices" means schedules of
 25 activities, prohibitions of practices, maintenance procedures, and other management
 26 practices to prevent or reduce the pollution of the marine waters of the state.

27 (f) A plan submitted under (e) of this section after December 31, 2012, may
 28 not be approved by the department for a period extending beyond December 31, 2015.

29 * **Sec. 7.** AS 46.03.463(b) is amended to read:

30 (b) Except as provided in (h) of this section or under **AS 46.03.462(c) - (e)**
 31 [AS 46.03.462(c) - (d)], a person may not discharge sewage from a commercial

1 passenger vessel into the marine waters of the state that has suspended solids greater
 2 than 150 milligrams per liter or a fecal coliform count greater than 200 colonies per
 3 100 milliliters except that the department may by regulation adopt a protocol for
 4 retesting for fecal coliform, if this discharge limit for fecal coliform is exceeded, under
 5 which a discharger will be considered to be in compliance with the fecal coliform limit
 6 if the geometric mean of fecal coliform count in the samples considered under the
 7 protocol does not exceed 200 colonies per 100 milliliters. Upon submission by the
 8 owner or operator of a small commercial passenger vessel of a plan for interim
 9 protective measures under AS 46.03.462(c)(2) and (d), the department shall extend
 10 the time for compliance of that vessel with this subsection.

11 * **Sec. 8.** AS 46.03.463(b) is amended to read:

12 (b) Except as provided in (h) of this section or under AS 46.03.462(c) - (d)
 13 [AS 46.03.462(c) - (e)], a person may not discharge sewage from a commercial
 14 passenger vessel into the marine waters of the state that has suspended solids greater
 15 than 150 milligrams per liter or a fecal coliform count greater than 200 colonies per
 16 100 milliliters except that the department may by regulation adopt a protocol for
 17 retesting for fecal coliform, if this discharge limit for fecal coliform is exceeded, under
 18 which a discharger will be considered to be in compliance with the fecal coliform limit
 19 if the geometric mean of fecal coliform count in the samples considered under the
 20 protocol does not exceed 200 colonies per 100 milliliters. Upon submission by the
 21 owner or operator of a small commercial passenger vessel of a plan for interim
 22 protective measures [UNDER AS 46.03.462(c)(2) AND (d)], the department shall
 23 extend the time for compliance of that vessel with this subsection.

24 * **Sec. 9.** AS 46.03.463(c) is amended to read:

25 (c) Except as provided in (h) of this section or under AS 46.03.462(c) - (e)
 26 [AS 46.03.462(c) - (d)], a person may not discharge graywater or other wastewater
 27 from a commercial passenger vessel into the marine waters of the state that has
 28 suspended solids greater than 150 milligrams per liter or a fecal coliform count greater
 29 than 200 colonies per 100 milliliters except that the department may by regulation
 30 adopt a protocol for retesting for fecal coliform, if this discharge limit for fecal
 31 coliform is exceeded, under which a discharger will be considered to be in compliance

1 with the fecal coliform limit if the geometric mean of fecal coliform count in the
 2 samples considered under the protocol does not exceed 200 colonies per 100
 3 milliliters. Upon submission by the owner or operator of a large commercial
 4 passenger vessel of a plan for interim protective measures, the department shall extend
 5 the time for compliance of that vessel with this subsection for a period of time that
 6 ends not later than January 1, 2003. Upon submission by the owner or operator of a
 7 small commercial passenger vessel of a plan for interim protective measures under
 8 AS 46.03.462(c)(2) and (d), the department shall extend the time for compliance of
 9 that vessel with this subsection.

10 * **Sec. 10.** AS 46.03.463(c) is amended to read:

11 (c) Except as provided in (h) of this section or under AS 46.03.462(c) - (d)
 12 [AS 46.03.462(c) - (e)], a person may not discharge graywater or other wastewater
 13 from a commercial passenger vessel into the marine waters of the state that has
 14 suspended solids greater than 150 milligrams per liter or a fecal coliform count greater
 15 than 200 colonies per 100 milliliters except that the department may by regulation
 16 adopt a protocol for retesting for fecal coliform, if this discharge limit for fecal
 17 coliform is exceeded, under which a discharger will be considered to be in compliance
 18 with the fecal coliform limit if the geometric mean of fecal coliform count in the
 19 samples considered under the protocol does not exceed 200 colonies per 100
 20 milliliters. Upon submission by the owner or operator of a large commercial
 21 passenger vessel of a plan for interim protective measures, the department shall extend
 22 the time for compliance of that vessel with this subsection for a period of time that
 23 ends not later than January 1, 2003. Upon submission by the owner or operator of a
 24 small commercial passenger vessel of a plan for interim protective measures [UNDER
 25 AS 46.03.462(c)(2) AND (d)], the department shall extend the time for compliance of
 26 that vessel with this subsection.

27 * **Sec. 11.** AS 46.03.463(e) is amended to read:

28 (e) Except as provided in (g) and (h) of this section or under AS 46.03.462(c) -
 29 (e) [AS 46.03.462(c) - (d)], a person may not discharge any treated sewage, graywater,
 30 or other wastewater from a large commercial passenger vessel into the marine waters
 31 of the state unless

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

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

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

9 (4) the vessel is not in an area where the discharge of treated sewage,
10 graywater, or other wastewater is prohibited.

11 * **Sec. 12.** AS 46.03.463(e) is amended to read:

12 (e) Except as provided in (g) and (h) of this section or under AS 46.03.462(c) -
13 (d) [AS 46.03.462(c) - (e)], a person may not discharge any treated sewage, graywater,
14 or other wastewater from a large commercial passenger vessel into the marine waters
15 of the state unless

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

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

20 (3) the discharge complies with all applicable vessel effluent standards
21 established under the federal cruise ship legislation and any other applicable law; the
22 standards under the federal cruise ship legislation and other applicable law may be
23 adopted by regulation by the department; and

24 (4) the vessel is not in an area where the discharge of treated sewage,
25 graywater, or other wastewater is prohibited.

26 * **Sec. 13.** AS 46.03.462(e) and 46.03.462(f) are repealed.

27 * **Sec. 14.** The uncoded law of the State of Alaska is amended by adding a new section to
28 read:

29 **RETROACTIVE EFFECT FOR 2004 SEASON.** (a) If the owner or operator of a
30 small passenger vessel whose keel was laid before December 31, 2003, submits a plan under
31 AS 46.03.462(e), enacted by sec. 6 of this Act, within 30 days after the effective date of this

1 section and the Department of Environmental Conservation accepts the plan, the plan is
2 considered to be approved retroactively to the first day the vessel operated in the marine
3 waters of the state in 2004.

4 (b) The plan of an owner or operator is considered to be submitted by the deadline in
5 (a) of this section if initial submission is by that date, notwithstanding that amendments to the
6 plan may be required after that date in order for the department to approve the plan.

7 (c) Notwithstanding (a) and (b) of this section, the retroactive effect of the
8 department's approval under this section applies only if the plan submitted under
9 AS 46.03.462(e) is approved by December 31, 2004.

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

12 RETROACTIVITY. Sections 1, 2, 4, 6, 7, 9, and 11 of this Act are retroactive to
13 January 1, 2004.

14 * **Sec. 16.** Sections 3, 5, 8, 10, 12, and 13 of this Act take effect January 1, 2016.

15 * **Sec. 17.** Except as provided in sec. 16 of this Act, this Act takes effect immediately under
16 AS 01.10.070(c).