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1 IN THE SENATE

BY BLODGETT

2 SENATE BILL NO. 312

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the division of pollution control
7 within the Department of Fish and Game."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 16 is amended by adding a new chapter to read:

10 CHAPTER 50. DIVISION OF POLLUTION CONTROL.

11 ARTICLE 1. ADMINISTRATION.

12 Sec. 16.50.010. DIVISION OF POLLUTION CONTROL. There is in the
13 Department of Fish and Game the division of pollution control.

14 Sec. 16.50.020. DIRECTOR. The division of pollution control is
15 administered by a director of pollution control. The director is ap-
16 pointed by the commissioner and serves at the pleasure of the commis-
17 sioner.

18 Sec. 16.50.030. POWERS AND DUTIES OF THE DIRECTOR. The director
19 shall

20 (1) have general charge and supervision of the division and
21 may exercise the powers specifically delegated to him; may employ and
22 fix the compensation of assistants and employees necessary for the
23 operations of the division; and is the certifying officer of the divi-
24 sion, with the consent of the commissioner, and may approve vouchers
25 for disbursements of money appropriated to the division;

26 (2) execute laws, rules, regulations and orders adopted by
27 the commissioner;

28 (3) prescribe fees or service charges, with the consent of
29 the commissioner, for any public service rendered;

1 (4) maintain such records as the commissioner considers
2 necessary, and do all things incidental to the authority imposed;

3 (5) select and employ or obtain at reasonable compensation
4 specialists in the field of pollution and other professional personnel
5 he considers necessary for the proper operation of the division;

6 (6) have the authority to seize all vessels which violate
7 the provisions of this chapter.

8 ARTICLE 2. FUNCTIONS OF DIVISION OF POLLUTION CONTROL.

9 Sec. 16.50.050. DECLARATION OF PUBLIC POLICY. It is the public
10 policy of the state to maintain reasonable standards of purity of the
11 waters of the state consistent with public health and public enjoyment,
12 the propagation and protection of fish and wild life, including birds,
13 mammals and other terrestrial and aquatic life, and the industrial
14 development of the state, and to require the use of all known
15 available and reasonable methods to prevent and control the pollution
16 of the waters of the state.

17 Sec. 16.50.060. AUTHORITY OF DIVISION. The division has juris-
18 diction to abate and prevent the pollution of the waters of the state.
19 Its authority includes but is not limited to the authority set forth
20 in this chapter.

21 Sec. 16.50.070. PUBLIC HEARINGS. The division may hold public
22 hearings at centrally located points. It shall give at least 60 days'
23 public notice before the date of each hearing. The division may
24 receive pertinent and relevant proof from any party in interest who
25 appears before it, compel the attendance of witnesses, make findings
26 of fact and determinations, and assess penalties for violations of
27 this chapter or orders issued by the division.

28 Sec. 16.50.080. STANDARDS. After public hearing, the division
29 may adopt standards and make them public and determine what qualities

1 and properties of water indicate a polluted condition actually or
2 potentially deleterious, harmful, detrimental or injurious to the
3 public health, safety or welfare, to terrestrial and aquatic life or
4 their growth and propagation, or to the use of waters for domestic,
5 commercial, industrial, agricultural, recreational, or other reasonable
6 purposes.

7 Sec. 16.50.090. PREVENTION OF POLLUTING WASTE. After public
8 hearing, the division may make, alter, or modify orders requiring the
9 discontinuance of the discharge of any sewage, industrial waste, or other
10 waste into the waters of this state resulting in pollution in excess
11 of the applicable standards established under sec. 80 of this chapter
12 and specifying the conditions and the time within which discontinuance
13 shall be accomplished.

14 Sec. 16.50.100. LEGAL PROCEEDINGS. The division may institute
15 or have instituted legal proceedings to compel compliance with this
16 article or the determinations and orders of the division.

17 Sec. 16.50.110. WATER POLLUTION CONTROL PLAN. The division shall
18 develop comprehensive plans for water pollution control in the state
19 and conduct investigations it considers advisable and necessary for
20 the discharge of its duties.

21 Sec. 16.50.120. RECEIPT OF FUNDS. The division shall serve as
22 the agency of the state for the receipt of money from the federal
23 government, or other public or private agencies. It may spend this
24 money after appropriation, for the purpose of pollution control in-
25 vestigations, studies, research or otherwise.

26 Sec. 16.50.130. PLANS FOR POLLUTION DISPOSAL. The division may
27 require the submission of plans for sewage, industrial waste, or other
28 waste disposal or treatment or both for a publicly or privately owned
29 or operated industrial establishment, community, public or private

1 property subdivision or development.

2 Sec. 16.50.140. COOPERATION WITH OTHER AGENCIES OR PERSONS. The
3 division may cooperate with other state divisions of the state govern-
4 ment, state officers, municipalities, other states, the United States,
5 the Dominion of Canada or any province of Canada, industries, societies,
6 corporations, and individuals to protect and free the waters of the
7 state of pollution.

8 Sec. 16.50.150. RIGHT OF INSPECTION. The division or an agent
9 of the division may enter public or private property at reasonable times
10 for the purpose of inspecting and investigating conditions relating to
11 pollution of waters of the state.

12 Sec. 16.50.160. ASSISTANCE FROM OTHER AGENCIES IN PROBLEMS OF
13 WATER USAGE. The division shall enlist the aid of representatives of
14 local, state and federal governmental agencies and units charged with
15 matters relating to fisheries, mines, agriculture, forests, water
16 resources, conservation, recreation, public health and other fields
17 related to water usage and representatives of private industry affected
18 by water usage.

19 Sec. 16.50.170. STANDARDS OF QUALITY AND PURITY. After study and
20 public hearings held upon due notice, the division may establish
21 standards of quality and purity or group the designated waters of the
22 state into classes as to quality and purity, or both. The division
23 shall classify waters in accordance with considerations of best usage
24 in the interest of the public. The division may alter and modify
25 classifications after hearing.

26 Sec. 16.50.180. OVERSEEING TRANSFER OPERATIONS. The division
27 shall have persons especially trained in the field of pollution present
28 at docks or other locations when oil, tar, residuary products of oil
29 or any refuse of any kind is transferred to or from a vessel.

1 ARTICLE 3. PROHIBITED ACTS AND PENALTIES.

2 Sec. 16.50.200. CONSTRUCTION OF CERTAIN FACILITIES PROHIBITED.

3 No person may construct, extend, install or operate a sewage system
4 or treatment works, or any part of a sewage system or treatment works
5 until plans for it are submitted to the division for review, and the
6 division approves them in writing and issues a written permit. The
7 division may waive the requirement that plans be submitted to it.

8 Sec. 16.50.210. POLLUTION PROHIBITED. It is unlawful for a
9 person to discharge any sewage, industrial waste, or other wastes into
10 the waters of this state.

11 Sec. 16.50.220. NOTICE TO VIOLATOR AND HEARING. (a) Whenever
12 it appears to the division, after investigation, that a person has
13 violated any provision of this chapter or a regulation adopted under it
14 or an order of the division, the division shall give the person
15 written notice of the violation, setting forth the thing or act done
16 or omitted to be done or claimed to be a violation, and require him
17 to correct the matter complained of or direct him to appear in person
18 or by attorney before the division or its designated agent at the time
19 and place specified in the notice, and answer the charges.

20 (b) After consideration of statements, and testimony and argu-
21 ments filed with the division or on default in appearance, the
22 division may issue the final order or make the final determination it
23 considers appropriate under the circumstances. The division shall
24 notify the person in writing, personally or by registered mail, of the
25 final order or final determination.

26 Sec. 16.50.230. EMERGENCY ACTION BY DIVISION. When the division,
27 after investigation, finds that a person is polluting the waters of
28 the state as prohibited in sec. 210 of this chapter, and that it would
29 be prejudicial to the interests of the state to delay action, the

1 division shall declare an emergency and notify the person in writing
2 to immediately discontinue the discharge into the waters of the state.
3 The person shall immediately discontinue the discharge.

4 Sec. 16.50.240. INJUNCTION PROCEEDINGS. Upon the request of the
5 division the attorney general may bring an action for an injunction
6 against a person violating this chapter or violating an order or de-
7 termination of the division. In an action under secs. 200 - 270 of
8 this chapter for an injunction a finding of the division made after
9 hearing on due notice is prima facie evidence of the fact found.

10 Sec. 16.50.250. SEIZURE OF VESSELS. A vessel used to violate
11 this chapter, or rule or regulation of the division shall be seized by
12 the director or his authorized agent and the vessel may be released
13 only upon the posting of a \$50,000 bond.

14 Sec. 16.50.260. PENALTIES FOR VIOLATIONS. A person who wilfully
15 violates a provision of this chapter, a final determination or order
16 of the division adopted under this chapter is guilty of a felony and
17 upon conviction is punishable by a fine of not less than \$10,000 or by
18 imprisonment for not less than one nor more than five years, or by
19 both, for each separate violation. Each day upon which a violation
20 occurs is a separate violation.

21 Sec. 16.50.270. LIABILITY OF CORPORATE OFFICERS AND DIRECTORS.
22 In an action brought against a corporation under sec. 260 of this
23 chapter, the directors and officers of the corporation are jointly and
24 severally liable for the fine imposed against the corporation.

25 ARTICLE 4. GENERAL PROVISIONS.

26 Sec. 16.50.300. DEFINITIONS. In this chapter

27 (1) "commissioner" means the commissioner of the Department
28 of Fish and Game;

29 (2) "division" means the division of pollution control;

1 (3) "industrial waste" means a liquid, gaseous, solid, or
2 other waste substance or a combination of them resulting from process
3 of industry, manufacturing trade or business, or from the development
4 of natural resources; however, gravel, sand, mud, or earth taken from
5 its original situs and put through sluice boxes, dredges, or other
6 devices for the washing and recovery of the precious metal contained
7 in them and redeposited in the same watershed from which it came is
8 not industrial waste;

9 (4) "other wastes" means garbage, refuse, decayed wood,
10 sawdust, shavings, bark, trimmings from logging operations, sand, lime,
11 cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, petroleum,
12 coal, oil tar, lampblack, aniline, asphalt, bitumen, residuary products
13 of petroleum, or carbonaceous materials or substance and other sub-
14 stances not sewage or industrial waste which may cause or tend to
15 cause pollution of the waters of the state;

16 (5) "person" means any individual, public or private corpora-
17 tion, political subdivision, government agency, municipality, industry,
18 copartnership, association, firm, trust, estate, or any other entity
19 whatsoever;

20 (6) "pollution" means the contamination or altering of waters
21 of the state in a manner which creates a nuisance or makes waters un-
22 clean, or noxious, or impure, or unfit so that they are actually or
23 potentially harmful or detrimental or injurious to public health,
24 safety or welfare, to domestic, commercial, industrial, or recreational
25 use, or to livestock, wild animals, bird, fish, or other aquatic
26 life; the results of activities connected with gravel-washing plants
27 and placer mining operations are not pollution;

28 (7) "sewage" means the water-carried human or animal wastes
29 from residences, buildings, industrial establishments, or other

1 places, together with ground water infiltration and surface water
2 as may be present; the admixture with sewage of industrial wastes or
3 other wastes is "sewage";

4 (8) "sewer system" or "sewerage system" means pipe lines or
5 conduits, pumping stations, and force mains, and all other appurtenant
6 constructions, devices, and appliances used for conducting sewage,
7 industrial waste, or other wastes to a point of ultimate disposal;

8 (9) "standard" means the measure of purity or quality for
9 waters in relation to their reasonable and necessary use as established
10 by the division.

11 (10) "treatment works" means a plant, disposal field, lagoon,
12 pumping station, constructed drainage ditch or surface water intercept-
13 ing ditch, incinerator, area devoted to sanitary land fills, or other
14 works installed for the purpose of treating, neutralizing, stabilizing
15 or disposing of sewage, industrial waste, or other wastes;

16 (11) "waters" includes lakes, bays, sounds, ponds, impounding
17 reservoirs, springs, wells, rivers, streams, creeks, estuaries,
18 marshes, inlets, straits, passages, canals, the Pacific Ocean, Gulf
19 of Alaska, Bering Sea and Arctic Ocean, within the territorial limits
20 of the state, and all other bodies of surface or underground water,
21 natural or artificial, public or private, inland or coastal, fresh
22 or salt, which are wholly or partially within or bordering the state
23 or under the jurisdiction of the state.
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