

Introduced: 3/21/72
Referred: Resources

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 749 *am*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Department of Environmental
7 Conservation."

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

9 * Section 1. AS 46.03.020(6) is amended to read:

10 (6) at reasonable times enter and inspect with the consent
11 of the owner or occupier any property or premises to investigate
12 either actual or suspected sources of pollution or contamination or to
13 ascertain compliance or noncompliance with a regulation which may be
14 promulgated under [SECS. 20 - 40 OF] this chapter; information relating
15 to secret processes or methods of manufacture discovered during
16 investigation is confidential;

17 * Sec. 2. AS 46.03.030(a) is amended to read:

18 (a) The department may pay, as funds are available, 25 per cent
19 of the total eligible [ESTIMATED REASONABLE] cost, as determined by the
20 Administrator of the Environmental Protection Agency [SECRETARY OF THE
21 INTERIOR], of each waste treatment works project approved for a federal
22 grant by the Environmental Protection Agency [FEDERAL WATER QUALITY
23 ADMINISTRATION] or its predecessor agencies [, THE FEDERAL WATER
24 POLLUTION CONTROL ADMINISTRATION,] and on which construction was
25 initiated after June 30, 1967. As funds are available, the department
26 may lend on an interest-free basis for a project approved after June 30,
27 1970, any part of an anticipated federal grant. Money received from the
28 Environmental Protection Agency [FEDERAL WATER QUALITY ADMINISTRATION]
29 for the project after the loan is given must be used to repay the

1 loan, but the loan need be repaid only to the extent of this federal
2 assistance.

3 * Sec. 3. AS 46.03.030(b) is amended to read:

4 (b) The department may pay to a municipality, as funds are avail-
5 able, up to the lesser of 25 per cent of the total eligible [ESTIMATED]
6 cost or 50 per cent of the total eligible [ESTIMATED] cost not borne by
7 the federal government, if there is federal assistance, of water
8 systems, including collection and impounding facilities, and of those
9 portions of sewerage systems not covered by (a) of this section. The
10 total eligible [ESTIMATED] cost of any part of a system will be as
11 determined by the federal agency which gives the most monetary assist-
12 ance or, if none, by the department. Systems shall be constructed
13 according to plans and specifications approved by the federal agency
14 which gives the most monetary assistance or, if none, by the
15 department.

16 * Sec. 4. AS 46.03.070 is amended to read:

17 Sec. 46.03.070. WATER QUALITY ENHANCEMENT AND CONSERVATION
18 [POLLUTION] STANDARDS. After public hearing, the department may adopt
19 standards and make them public and determine what qualities and pro-
20 perties of water indicate a polluted condition actually or potentially
21 deleterious, harmful, detrimental or injurious to the public health,
22 safety or welfare, to terrestrial and aquatic life of their growth and
23 propagation, or to the use of waters for domestic, commercial,
24 industrial, agricultural, recreational, or other reasonable purposes.

25 * Sec. 5. AS 46.03.090 is repealed.

26 * Sec. 6. AS 46.03.100 is amended to read:

27 Sec. 46.03.100. WASTE DISCHARGE [DISPOSAL] PERMIT. (a) A person
28 who conducts an [A COMMERCIAL OR INDUSTRIAL] operation which results
29 in the discharge [DISPOSAL] of solid or liquid waste material or heated

1 process or cooling waters into the waters or onto the land of the state
2 must procure a permit from the department before discharging such
3 [[DISPOSING OF THE] waste material or waters. The permit must be
4 obtained for direct discharge [DISPOSAL] and for discharge [DISPOSAL]
5 into publicly operated sewerage systems.

6 (b) This section does not apply to a person discharging only
7 domestic sewage into a sewerage system.

8 * Sec. 7. AS 46.03.110(a) is amended to read:

9 Sec. 46.03.110. WASTE DISCHARGE [DISPOSAL] PERMIT PROCEDURE. (a)
10 An application for a permit shall be made on forms prescribed by the
11 department and shall contain the name and address of the applicant, a
12 description of his operations, the quantity and type of waste material
13 sought to be discharged [DISPOSED OF], the proposed method of treatment
14 and discharge [DISPOSAL], and any other information considered necessary
15 by the department. Application for a permit shall be made at least 60
16 days before commencement of a proposed discharge.

17 * Sec. 8. AS 46.03.120 is amended to read:

18 Sec. 46.03.120. TERMINATION OR MODIFICATION OF WASTE DISCHARGE
19 [DISPOSAL] PERMIT. (a) The department may terminate a permit upon 30
20 days written notice if the department finds

21 (1) that the permit was procured by misrepresentation of
22 material fact or by failure of the applicant to disclose fully the
23 facts relating to its issuance;

24 (2) that there has been a violation of the conditions of the
25 permit;

26 (3) that there has been a material change in the quantity or
27 type of waste discharged [DISPOSED OF].

28 (b) The department may modify a permit if the department finds
29 that a material change in the quality or classification of the waters

1 of the state has occurred.

2 * Sec. 9. AS 46.03.140 is amended to read:

3 Sec. 46.03.140. EMISSION CONTROL REQUIREMENTS. The department
4 may establish air pollution control regulations which in its judgment
5 are necessary to prevent, abate or control air pollution. These
6 regulations may be for the state as a whole or may vary from area to
7 area as may be appropriate to facilitate accomplishment of the pur-
8 poses of this chapter and in order to take account of varying local
9 conditions. The department may require the owner or operator of
10 stationary sources to install, maintain, and operate emission or
11 ambient air monitoring devices, or both and to furnish the data
12 collected to the department. The department may publish this data,
13 including the source of the air contaminants.

14 * Sec. 10. AS 46.03.170(d) is amended to read:

15 (d) The department may upon application renew an existing
16 variance on terms and conditions and for periods which would be
17 appropriate on initial granting of a variance, however, no renewal
18 period when added to the time periods of the original variance and
19 preceding renewals, may exceed five years. If complaint is made to
20 the department on account of the variance no renewal of it may be
21 granted unless, after public hearing on the complaint following due
22 notice, the department finds that renewal is justified. Application
23 shall be made at least 60 days before the expiration of the variance.
24 Immediately upon receipt of an application for renewal the department
25 shall give public notice of it.

26 * Sec. 11. AS 46.03.180 is amended to read:

27 Sec. 46.03.180. CONFIDENTIALITY OF RECORDS. Records and informa-
28 tion in the possession of the department which relate to production or
29 sales figures or to processes or production techniques of the owner or

1 operator of an air contaminant source are considered confidential
2 records of the department after application by the party and certifi-
3 cation that their public disclosure would tend to adversely affect his
4 competitive position. Confidentiality of records and information as
5 established by this section does not apply to the types, amounts, or
6 sources of air contaminants discharged.

7 * Sec. 12. AS 46.03.210(a) is amended to read:

8 (a) A municipality with a population in excess of 1,000 may,
9 within five years from August 5, 1969, establish and administer within
10 its jurisdiction an air pollution control program. Organized boroughs
11 may establish an air pollution control program on an areawide basis,
12 and the exercise of powers with respect to the program is not subject
13 to the restrictions on acquiring additional areawide powers specified
14 in AS 07.15.350. However, the weighted vote shall apply to the
15 exercise of powers as provided in AS 07.20.070(d). Local programs shall

16 (1) provide by ordinance for requirements compatible with
17 those imposed by the provisions of secs. 140 - 170 [140 AND 170] of
18 this chapter and applicable regulations;

19 (2) provide for the enforcement of the requirements imposed
20 through appropriate administrative and judicial processes;

21 (3) provide for a local administrative organization, staff,
22 and other resources necessary to effectively carry out the purposes of
23 the program; and

24 (4) be approved by the department as being satisfactory to
25 meet the requirements of secs. 140 - 170 of this chapter and the
26 applicable regulations.

27 * Sec. 13. AS 46.03.720 is amended to read:

28 Sec. 46.03.720. CONSTRUCTION AND OPERATION OF CERTAIN FACILITIES
29 PROHIBITED. No person may construct, extend, install, alter, or

1 operate a sewerage [SEWAGE] system or treatment works, or any part of
2 a sewerage [SEWAGE] system or treatment works, to serve a public,
3 municipal, commercial, or industrial operation, a public or private
4 subdivision, or a mobile home development until plans for it are sub-
5 mitted to the department for review [,] and the department approves
6 them in writing, and also issues a written permit for the operation.
7 The department may waive the requirement that plans be submitted to it.

8 * Sec. 14. AS 46.03.750(a) is amended to read:

9 (a) No person may pollute or add to the pollution of waters of
10 the state by discharging from any vessel or facility ballast water,
11 tank-cleaning waste water or other waste containing petroleum in
12 excess of the maximum permitted by the water quality standards
13 established under secs. 70 and 80 of this chapter and in no event may
14 a vessel or facility discharge ballast water, tank-cleaning waste
15 water or other waste containing petroleum in excess of 50 parts per
16 million of oil residue.

17 * Sec. 15. AS 46.03.760(a) is amended to read:

18 (a) A person who violates secs. 710, 720, 730, 740, or 750 of this
19 chapter is guilty of a misdemeanor and upon conviction is punishable by
20 a fine of not more than \$25,000, or by imprisonment for not more than
21 one year, or by both. A person who violates any other section of this
22 chapter, a regulation, or a written order or directive of the depart-
23 ment or court made under this chapter is guilty of a misdemeanor, and
24 upon conviction shall be punished by a fine of not more than \$5,000
25 and costs of prosecution, or by imprisonment for not more than one
26 year, or by fine, cost, and imprisonment at the discretion of the
27 court. Each unlawful act, or each day upon which a violation of a
28 provision or regulation of this chapter exists, shall be a separate and
29 additional offense [CONSTITUTES A SEPARATE OFFENSE].

1 * Sec. 16. AS 46.03.760(e) is amended to read:

2 (e) Nothing in this section affects a person's or the state's
3 [AN INDIVIDUAL'S] right to recover damages under other applicable
4 statutes or the common law.

5 * Sec. 17. AS 46.03.780(b) is amended to read:

6 (b) Damages [LIABILITY FOR DAMAGES] under (a) of this section
7 includes, in addition to the costs of amelioration, abatement, and
8 clean-up, an amount equal to the sum of money required to restock
9 injured land or waters, to replenish a damaged or degraded resource, or
10 to otherwise restore the environment of the state to its condition
11 before the injury.

12 * Sec. 18. AS 46.03.790 is repealed.

13 * Sec. 19. AS 46.03.800(b) is amended to read:

14 (b) A person who neglects or refuses to abate the nuisance upon
15 order of the department is guilty of a misdemeanor and is punishable
16 as provided in sec. 760 [790] of this chapter. In addition to this
17 punishment, the court shall assess damages against the defendant for
18 the expenses of abating the nuisance.

19 * Sec. 20. AS 46.03.810 is amended to read:

20 Sec. 46.03.810. AIR AND LAND NUISANCES. (a) A person is guilty
21 of creating or maintaining a nuisance if he

22 (1) places or deposits upon a lot, street, beach, premises
23 or upon, or within 200 feet of a public highway [, UNLESS THE HIGHWAY
24 ABUTS UPON TIDAL WATER,] any garbage, offal, dead animals, or any other
25 matter or thing, which would be obnoxious or cause the spread of
26 disease or in any way endanger the health of the community;

27 (2) allows to be placed or deposited upon any premises
28 owned by him or under his control garbage, offal, dead animals, or any
29 other matter or thing which would be obnoxious or offensive to the

1 public or which would produce, aggravate, or cause the spread of
2 disease or in any way endanger the health of the community.

3 (b) A person who neglects or refuses to abate the nuisance upon
4 order of an officer of the Department of Environmental Conservation is
5 guilty of a misdemeanor and is punishable as provided in sec. 760
6 [790] of this chapter. In addition to this punishment, the court
7 shall assess damages against the defendant for the expenses of abating
8 the nuisance.

9 * Sec. 21. AS 46.03.820(a) is amended to read:

10 (a) When the department finds, after investigation, that a person
11 is causing, engaging in or maintaining a condition or activity which,
12 in the judgment of its commissioner presents an imminent or present
13 danger to the health or welfare of the people of the state or would
14 result in or be likely to result in irreversible or irreparable damage
15 to the natural resources or environment, and it appears to be pre-
16 judicial to the interests of the people of the state to delay action
17 until an opportunity for a hearing can be provided, the department may,
18 without prior hearing, order that person by notice to discontinue,
19 abate or alleviate the condition or activity. If the [THE] proscribed
20 condition or activity is not [SHALL BE] immediately discontinued,
21 abated or alleviated the attorney general may seek enforcement of the
22 order by injunction or by other appropriate summary proceedings.

23 * Sec. 22. AS 46.03.130 is repealed.

24 * Sec. 23. AS 46.03 is amended by adding a new section to read:

25 Sec. 46.03.850. COMPLIANCE ORDER. (a) When, in the opinion of
26 the department, a person is violating or is about to violate regula-
27 tions and standards established under the provisions of this chapter
28 the department shall notify the person of its determination by
29 certified mail. The determination and notice do not constitute an

1 order under sec. 820 of this chapter.

2 (b) Within 15 days from the receipt of the notice, the recipient
3 of the determination must file with the department a report stating
4 what measures have been and are being taken to control the conditions
5 outlined in the notice from the department.

6 (c) Thereafter, the department may issue a compliance order in
7 conformity with the authority of the department and the public policy
8 declared in sec. 10 of this chapter. A copy of the compliance order
9 shall be sent by certified mail to the person affected. A compliance
10 order is effective upon receipt.

11 (d) Within 10 days of receipt, a person affected may make
12 application for a hearing to review the compliance order. Failure to
13 make application for hearing within 10 days of the receipt of a
14 compliance order constitutes a waiver of the recipient's right of
15 review.

16 (e) The department shall hold a hearing within 20 days of
17 receipt of the application. After hearing, the department may rescind,
18 modify or affirm the compliance order.

19 (f) The attorney general shall seek enforcement of a compliance
20 order.

21 * Sec. 24. AS 46.03.900(9) is amended to read:

22 (9) "industrial waste" means a liquid, gaseous, solid, or
23 other waste substance or a combination of them resulting from process
24 of industry, manufacturing trade or business, or from the development
25 of natural resources [HOWEVER, GRAVEL, SAND, MUD, OR EARTH TAKEN FROM
26 ITS ORIGINAL SITUS AND PUT THROUGH SLUICE BOXES, DREDGES, OR OTHER
27 DEVICES FOR THE WASHING AND RECOVERY OF THE PRECIOUS METAL CONTAINED
28 IN THEM AND REDEPOSITED IN THE SAME WATERSHED FROM WHICH IT CAME IS
29 NOT INDUSTRIAL WASTE];

1 * Sec. 25. AS 46.03.900(11) is amended to read:

2 (11) "municipality" means an organized borough or an
3 incorporated city [OUTSIDE AN ORGANIZED BOROUGH,] and includes all
4 classes of boroughs and cities whether home rule or otherwise;

5 * Sec. 26. AS 46.03.900(12) is amended to read:

6 (12) "other wastes" means garbage, refuse, decayed wood,
7 sawdust, shavings, bark, trimmings from logging operations, sand, lime
8 cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, heat
9 from cooling or process operations, and other substances not sewage or
10 industrial waste which may cause or tend to cause pollution of the
11 waters of the state;

12 * Sec. 27. AS 46.03.900(20) is amended to read:

13 (20) "standard" means a [THE] measure of environmental
14 [PURITY OR] quality [FOR WATERS IN RELATION TO THEIR REASONABLE AND
15 NECESSARY USE] as established by the department;

16 * Sec. 28. AS 46.03.900 is amended by adding a new paragraph to read:

17 (23) "permit" means written authorization from the
18 department.
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