

Introduced: 3/21/72  
Referred: Resources

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 749

SCS

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 of the state must procure a  
2 permit from the department before discharging such [DISPOSING OF THE]  
3 waste material or waters. The permit must be obtained for direct dis-  
4 charge [DISPOSAL] and for discharge [DISPOSAL] into publicly operated  
5 sewerage systems. Commercial and sports fishing boats are not covered by  
6 this Act.

7 (b) This section does not apply to natural and chemical agricul-  
8 tural fertilizer applications or a person discharging only domestic  
9 sewage into a sewerage system.

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

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

19 \* Sec. 8. AS 46.03.120 is amended to read:

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

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

26 (2) that there has been a violation of the conditions of the  
27 permit;

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

1 (b) The department may modify a permit if the department finds  
2 that a material change in the quality or classification of the waters  
3 of the state has occurred.

4 \* Sec. 9. AS 46.03.140 is amended to read:

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

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

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

28 \* Sec. 11. AS 46.03.180 is amended to read:

29 Sec. 46.03.180. CONFIDENTIALITY OF RECORDS. Records and informa-

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

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

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

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

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

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

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

29 \* Sec. 13. AS 46.03.720 is amended to read:

1           Sec. 46.03.720. CONSTRUCTION AND OPERATION OF CERTAIN FACILITIES  
2 PROHIBITED. No person may construct, extend, install, alter, or  
3 operate a sewerage [SEWAGE] system or treatment works, or any part of  
4 a sewerage [SEWAGE] system or treatment works, to serve a public,  
5 municipal, commercial, or industrial operation, a public or private  
6 subdivision, or a mobile home development until plans for it are sub-  
7 mitted to the department for review [,] and the department approves  
8 them in writing, and also issues a written permit for the operation.  
9 The department may waive the requirement that plans be submitted to it.

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

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

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

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

1 provision or regulation of this chapter exists, shall be a separate and  
2 additional offense [CONSTITUTES A SEPARATE OFFENSE].

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

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

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

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

14 \* Sec. 18. AS 46.03.790 is repealed.

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

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

21 \* Sec. 20. AS 46.03.810 is amended to read:

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

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

29 (2) allows to be placed or deposited upon any premises

1 owned by him or under his control garbage, offal, dead animals, or any  
2 other matter or thing which would be obnoxious or offensive to the  
3 public or which would produce, aggravate, or cause the spread of  
4 disease or in any way endanger the health of the community.

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

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

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

25 \* Sec. 22. AS 46.03.130 is repealed.

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

27 Sec. 46.03.850. COMPLIANCE ORDER. (a) When, in the opinion of  
28 the department, a person is violating or is about to violate regula-  
29 tions and standards established under the provisions of this chapter

1 the department shall notify the person of its determination by  
2 certified mail. The determination and notice do not constitute an  
3 order under sec. 820 of this chapter.

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

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

13 (d) Within 20 days of receipt, a person affected may make  
14 application for a hearing to review the compliance order. Failure to  
15 make application for hearing within 20 days of the receipt of a  
16 compliance order constitutes a waiver of the recipient's right of  
17 review.

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

21 (f) The attorney general shall seek enforcement of a compliance  
22 order.

23 \* Sec. 24. AS 46.03.900(11) is amended to read:

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

27 \* Sec. 25. AS 46.03.900(12) is amended to read:

28 (12) "other wastes" means garbage, refuse, decayed wood,  
29 sawdust, shavings, bark, trimmings from logging operations, sand, lime,

1 cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, heat  
2 from cooling or process operations, and other substances not sewage or  
3 industrial waste which may cause or tend to cause pollution of the  
4 waters of the state;

5 \* Sec. 26. AS 46.03.900(20) is amended to read:

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

9 \* Sec. 27. AS 46.03.900 is amended by adding a new paragraph to read:

10 (23) "permit" means written authorization from the  
11 department.  
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