

Original sponsor: Resources Committee  
by request

Offered: 4/19/72  
Referred: Judiciary by  
Chair

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 374

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 liability for the discharge of  
7 hazardous substances; and providing for an effective  
8 date."

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

10 \* Section 1. AS 46.03 is amended by adding new sections to read:

11 Sec. 46.03.822. STRICT LIABILITY FOR THE DISCHARGE OF HAZARDOUS  
12 SUBSTANCES. A person owning or having control over a hazardous sub-  
13 stance which enters in or upon the waters, surface or subsurface lands  
14 of the state is strictly liable, without regard to fault, for the  
15 damages to persons or property, public or private, caused by the entry.  
16 If an action is brought by the state to recover damages for oil pollu-  
17 tion, liability is limited as specified in sec. 760(b) of this chapter.  
18 In an action to recover damages, the person is relieved from strict  
19 liability, without regard to fault, if he can prove

20 (1) that the hazardous substance to which the damages  
21 relate entered in or upon the waters, surface or subsurface lands of  
22 the state solely as a result of

23 (A) an act of war,  
24 (B) an intentional act or a negligent act of a third party,  
25 (C) negligence on the part of the United States govern-  
26 ment or the State of Alaska, or  
27 (D) an act of God; and

28 (2) in relation to (1)(B), (C) or (D) of this section, that  
29 he discovered the entry of the hazardous substance in or upon the

1 waters, surface or subsurface lands of the state and began operations  
2 to contain and clean up the hazardous substance within a reasonable  
3 period of time.

4 Sec. 46.03.824. DAMAGES. Damages include but are not limited  
5 to injury to or loss of persons or property, real or personal, loss  
6 of income, loss of the means of producing income, or the loss of an  
7 economic benefit.

8 Sec. 46.03.826. DEFINITIONS. In secs. 822 - 828 of this chapter

9 (1) "act of God" means an act of nature which is unforesee-  
10 able in kind or degree;

11 (2) "economic benefit" means a benefit measurable in  
12 economic terms, including but not limited to the gathering, catching,  
13 or killing of food or other items utilized in a subsistence economy  
14 and their replacement cost;

15 (3) "hazardous substance" means

16 (A) an element or compound which, when it enters in  
17 or upon the waters or surface or subsurface lands of the state,  
18 presents an imminent and substantial danger to the public health  
19 or welfare, including but not limited to fish, animals, vegetation,  
20 or any part of the natural habitat in which they are found; or

21 (B) oil;

22 (4) "oil" means a derivative of a liquid hydrocarbon and  
23 includes crude oil, lubricating oil, sludge, oil refuse or another  
24 petroleum-related product or by-product;

25 (5) "owning or having control over a hazardous substance"  
26 means producing, handling, storing, transporting or refining a hazar-  
27 dous substance for commercial purposes immediately before entry of the  
28 hazardous substance in or upon the waters, surface or subsurface lands  
29 of the state, and specifically includes bailees and carriers of a

1 hazardous substance;

2 (6) "subsistence economy" means an economy which utilizes  
3 on a regular basis an item which is owned in common by the people of  
4 the state, or the United States, including but not limited to fish,  
5 game, fur bearing animals, birds, timber or any part of the natural  
6 habitat for noncommercial purposes;

7 (7) "waters, surface or subsurface lands of the state" mean  
8 all waters, surface or subsurface lands within the territorial limits  
9 of the State of Alaska.

10 Sec. 46.03.828. OTHER RIGHTS OF ACTION NOT AFFECTED. Nothing  
11 in secs. 822 - 828 of this chapter abridges or alters a right of  
12 action or remedy under another statute, in equity, or at common law.

13 \* Sec. 2. AS 46.03.870 is amended to read:

14 Sec. 46.03.870. ACTIONABLE RIGHTS. (a) Except as specified in  
15 secs. 822 - 828 of this chapter, the [THE] bases for proceedings or  
16 actions resulting from violations of this chapter or a regulation  
17 promulgated under this chapter inure solely to and are for the benefit  
18 of the state, and are not intended to in any way create new, or enlarge  
19 existing rights of persons or groups of persons in the state.

20 (b) Except as specified in secs. 822 - 828 of this chapter, a  
21 [A] determination or order of the department creates no presumption  
22 of law or finding of fact inuring to or for the benefit of persons  
23 other than the state.

24 (c) This chapter does not estop the state, persons or political  
25 subdivisions of the state in the exercise of their rights to suppress  
26 nuisances, to seek damages, or to otherwise abate or recover for the  
27 effects of pollution or other environmental degradation.

28 \* Sec. 3. This Act takes effect on the day after its passage and approval  
29 or on the day it becomes law without approval.