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1 IN THE HOUSE

BY THE RULES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 171 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the comprehensive recycling and
7 reduction of litter and imposing a litter reduction
8 assessment; and providing for an effective date."

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

10 * Section 1. LEGISLATIVE INTENT. (a) It is the intent of the legisla-
11 ture to maintain the natural environment of the state as nearly litter free
12 as possible so that our cities, boroughs, rural regions, highways, roads, and
13 recreational areas can be viewed and enjoyed by both present and future
14 citizens and visitors in their finest scenic state, unblemished by objects of
15 litter.

16 (b) It is the belief of the legislature that this can be accomplished
17 by a strong and well-balanced program of litter prevention, accompanied by
18 programs of public awareness designed to make littering an unacceptable
19 practice in the minds of all citizens and visitors -- a program of public
20 education with emphasis on younger people who will be the future citizens of
21 the state, and the application of reasonable but firm programs of law en-
22 forcement directed at those who choose to litter. It is the belief of the
23 legislature that the official encouragement and stimulation of private re-
24 cycling efforts, through recycling centers and other means, will result in
25 the recovery and reuse of major quantities of basic materials with accom-
26 panying significant conservation and savings of energy.

27 (c) It is the consensus of the legislature that these vitally necessary
28 goals and objectives can best be accomplished by designating a single state
29 agency with this responsibility. This agency is charged with primary re-

1 sponsibility for the state's litter and litter-related recycling programs,
2 and is mandated to coordinate its activities with all other state and local
3 agencies having litter or litter-related responsibilities. This agency,
4 through its administrator, should frequently consult with and seek counsel
5 from an advisory commission composed of persons having an established and
6 publicly recognized interest in the success of litter control and reduction
7 programs.

8 (d) It is the belief of the legislature that the people of Alaska
9 should have available to them the finest possible system of laws designed to
10 prevent litter and to encourage recycling and that, in the interest of ac-
11 complishing this, this Act shall be considered to be the official primary
12 litter control Act of the state, to the exclusion of all others. The legis-
13 lature retains the right to amend the authority granted in this Act or to
14 repeal this Act if, after a reasonable period of time, it is shown that the
15 goals and objectives envisioned are not being achieved.

16 (e) It is the intent of the legislature that appropriations to fund the
17 programs created under AS 41.21 contained in sec. 2 of this Act should not
18 include amounts for administrative expenses that exceed 35 per cent of the
19 total appropriation.

20 * Sec. 2. AS 41 is amended by adding a new chapter to read:

21 CHAPTER 21. RECYCLING AND REDUCTION OF LITTER.

22 Sec. 41.21.010. DIVISION OF RECYCLING AND LITTER REDUCTION. There
23 is created in the department the division of recycling and litter re-
24 duction.

25 Sec. 41.21.020. POWERS OF THE DIVISION. The division shall

26 (1) serve as the coordinating agency between the various
27 government and private organizations in the state which are involved in
28 litter control and reduction, source separation and recycling;

29 (2) assist local governments in the adoption and revision of

1 ordinances aimed at litter control and reduction;

2 (3) encourage, organize and coordinate voluntary local in-
3 formation campaigns seeking to focus the attention of the public on
4 reduction of litter and voluntary recycling;

5 (4) encourage, organize and coordinate voluntary local source
6 separation and recycling programs;

7 (5) encourage all state and local agencies to cooperate with
8 and aid source separation and recycling programs; this cooperation shall
9 include providing publicity which encourages recycling, and allowing the
10 use of publicly owned land, buildings, or equipment for recycling
11 efforts whenever possible;

12 (6) investigate the availability of, apply for, receive, and
13 expend grants, loans or other funds available from any private or public
14 source, and, where it is considered appropriate and feasible, accept
15 nonmonetary funding in the form of services or equipment for use in
16 programs established under this chapter; and

17 (7) adopt regulations under the Administrative Procedure Act
18 (AS 44.62) necessary to accomplish the purposes of this chapter.

19 Sec. 41.21.030. ANNUAL REPORTS. Within three months after the end
20 of each fiscal year, the division shall prepare a detailed report de-
21 scribing and evaluating the actions taken and programs established under
22 this chapter for submission to the governor and the legislature. This
23 report shall include, but need not be limited to, the status and results
24 of all grants made under this chapter, an evaluation of the progress
25 achieved by litter control and reduction programs, and an evaluation of
26 the conservation of nonrenewable resources and corresponding energy
27 value achieved by source separation and recycling programs in the state
28 whether or not those programs are established under this chapter.

29 Sec. 41.21.040. ADVISORY COUNCIL. (a) There is created an ad-

1 visory council to the division, which shall have responsibility for
2 advising the division concerning the litter control and reduction,
3 source separation and recycling programs under this chapter. The
4 council may encourage the participation of industry, labor, local
5 government units and agencies and the public in the programs adminis-
6 tered by the division.

7 (b) The council shall consist of seven members, who shall be
8 representatives of the businesses subject to the assessment under AS
9 43.71. All members shall be aware of and concerned with achieving the
10 goals of this chapter.

11 (c) The members shall be appointed by the governor and shall serve
12 two-year terms. Appointments of members to the advisory council are
13 subject to confirmation by a majority of the members of the legislature
14 in joint session. Each member shall hold office from the date of ap-
15 pointment until the end of the term for which the appointment is made.
16 Any member appointed to fill a vacancy occurring before the expiration
17 of a full term shall hold office for the remainder of the term. A
18 member shall continue in office after the expiration date of his term or
19 notice of resignation until a successor takes office. A vacancy in the
20 membership shall be filled by appointment within 60 days after the
21 vacancy occurs.

22 (d) The council shall meet not less than once every three months,
23 and may meet more frequently if necessary or desired. The members
24 receive no compensation for their services, but they are entitled to per
25 diem and travel expenses authorized by law for boards and commissions.

26 Sec. 41.21.050. PUBLIC AWARENESS; MOTIVATION. The division shall
27 establish, provide advice concerning, and coordinate programs designed
28 to

29 (1) educate the public and increase awareness of the need for

1 a litterless ethic in the state;

2 (2) utilize existing, and develop new, techniques and pro-
3 grams aimed at reducing litter and littering;

4 (3) instill in the public the desire to live in an environ-
5 ment free from litter;

6 (4) motivate the public not to litter and to engage in clean-
7 up efforts;

8 (5) advise the public of the state's anti-litter laws and
9 regulations and encourage enforcement of those laws and regulations.

10 Sec. 41.21.060. LITTER RECEPTACLES. (a) The director shall
11 design one or more types of litter receptacles which are uniform in
12 size, shape, capacity and color for wide and extensive distribution
13 throughout the public places of the state. Each receptacle shall bear
14 an anti-litter symbol or logo designated and adopted by the division and
15 a statement of the penalties for littering. Receptacles shall be con-
16 structed of a suitable and durable material which is designed to attract
17 attention and encourage the depositing of litter. To aid public recog-
18 nition and use of litter receptacles, the division shall emulate the
19 anti-litter symbols and receptacles used in other states.

20 (b) Litter receptacles of the uniform design shall be placed along
21 the public highways and business district sidewalks of this state and at
22 all parks, campgrounds, drive-in restaurants, gasoline service stations,
23 tavern parking lots, shopping centers, grocery store parking lots,
24 parking lots of major industrial firms, marinas, boat launching areas,
25 boat moorage and fueling stations, public and private piers, beaches,
26 bathing areas, and all other public places in the state unless specifi-
27 cally exempted by regulation of the director adopted under the Adminis-
28 trative Procedure Act (AS 44.62). The number of receptacles required to
29 be placed under this section shall be determined by a formula related to

1 the need for those receptacles. The requirement of this subsection may
2 be met by the use of litter receptacles in use before the establishment
3 of the uniform design for litter receptacles by the division, and which
4 adequately serve the purpose intended for those receptacles, except
5 their continued use shall be conditioned upon placement of the anti-
6 litter symbol upon those receptacles.

7 (c) It is the responsibility of any person owning or operating any
8 public place at which litter receptacles are required under (b) of this
9 section to procure, place and maintain those receptacles at his own
10 expense.

11 (d) Compliance with this section includes proper upkeep, mainte-
12 nance and repair of litter receptacles sufficient to permit those re-
13 ceptacles to serve the functions for which they were designed and to
14 prevent those receptacles from becoming unsightly.

15 (e) Responsibility for the removal of litter from litter recep-
16 tacles placed at publicly owned places remains with the public agencies
17 performing litter removal. Removal of litter from litter receptacles
18 placed on private property which is used by the public remains the
19 responsibility of the owner of that private property.

20 (f) A person may not damage, deface, abuse or misuse a litter re-
21 ceptacle not owned by him so as to interfere with its proper function or
22 to detract from its proper appearance.

23 (g) A person may not deposit leaves, clippings, prunings, garden
24 refuse or household waste materials in a litter receptacle, except with
25 the permission of the owner of that receptacle.

26 (h) A person who violates the provisions of this section, or a
27 regulation adopted under this section, is guilty of an infraction, and,
28 upon conviction, is punishable by a fine of \$10 for each violation and
29 each day of continued violation constitutes a separate infraction.

1 Sec. 41.21.070. LITTER BAGS. The division shall design and pro-
2 duce or cause to be produced a litter bag bearing the state anti-litter
3 symbol or logo and a statement of the penalties for littering in the
4 state. The division shall make available to the appropriate department
5 a sufficient quantity of these bags so that each person upon renewing
6 his motor vehicle registration may be given one along with his license
7 plates. The division of motor vehicles shall distribute one litter bag
8 for each set of license plates issued and notify the person of his
9 responsibilities under the law. The division shall make litter bags
10 available to all watercraft owners and persons entering the state by
11 automobile. The director shall pick key distribution points so that the
12 broadest possible distribution is made to persons entering the state by
13 automobile or watercraft.

14 Sec. 41.21.080. SURVEYS. (a) Within six months after the effec-
15 tive date of this Act, the division shall survey the amount and composi-
16 tion of litter on or near selected public highways, recreation land, and
17 urban areas in the state. The purpose of this survey is to measure the
18 effect of the programs established under this chapter. The areas sur-
19 veyed shall be chosen with the goal of later measurement of progress and
20 the need for regular identification of litter and littering rates in the
21 state.

22 (b) The division shall perform follow-up surveys on a sufficiently
23 regular basis to provide meaningful measurement of the amount and com-
24 position of litter and the rate of littering. The results of these
25 surveys shall be included in the annual report to the governor and
26 legislature required under sec. 30 of this chapter.

27 (c) The division may grant funds to public agencies or private
28 entities to conduct the surveys or a portion of them required under (a)
29 or (b) of this section.

1 Sec. 41.21.090. LITTER PATROL. (a) The division shall adopt
2 regulations which establish a youth litter patrol program for the em-
3 ployment of youths on a seasonal basis. In designing the program, the
4 division shall cooperate with federal, state or local programs that
5 either employ youths or encourage their employment.

6 (b) In enforcing the provisions of this chapter the division shall
7 be aided by all peace officers of the state as well as fish and game
8 enforcement officers and state park employees. These persons have the
9 authority to issue citations and to arrest, without warrant, persons
10 violating the provisions of this chapter or regulations adopted under
11 this chapter. The persons named in this subsection may serve and exe-
12 cute warrants, citations, and other process issued by the courts of this
13 state to enforce the provisions of this chapter. Mailing by registered
14 mail to the last known address of the person sought to be issued a
15 warrant, citation or other process constitutes personal service on the
16 person charged.

17 Sec. 41.21.100. PROHIBITED ACTS. (a) A person may not throw,
18 drop, deposit, discard, or otherwise dispose of litter, whether from a
19 vehicle or otherwise, on public or private property in the state or in
20 waters in the state or under state jurisdiction except

21 (1) when the property is designated by the state or an agency
22 or political subdivision of the state as property to be used for the
23 disposal of garbage or refuse, and the person is authorized to use the
24 property for that purpose; or

25 (2) when litter is placed into a litter receptacle so that
26 the litter will be prevented from being carried away or deposited by the
27 elements upon public or private property or waters in the state or under
28 state jurisdiction.

29 (b) No vehicle may be driven or moved on any public highway or

1 right-of-way unless it is constructed, loaded or covered to prevent its
2 load from dropping, sifting, leaking or otherwise escaping from the
3 vehicle, except that this subsection does not apply to any vehicle being
4 used to deposit salt or sand for the purpose of securing traction by a
5 public agency to clean or maintain highways, or to transport agricul-
6 tural, mining or timber products. Any person who operates a vehicle
7 from which an object has fallen or escaped which would constitute an
8 obstruction, hazard or otherwise endanger travel upon a public highway
9 or right-of-way shall immediately remove that obstruction at his own
10 expense or pay the cost of removal incurred by the state or any person.

11 (c) A person violating a provision of this section is guilty of an
12 infraction and upon conviction is punishable by a mandatory fine of not
13 more than \$25. The court may require that the person found guilty of
14 violating a provision of this section engage, for a time designated and
15 over an area designated, in gathering and properly disposing of all
16 litter in the area designated by the court.

17 Sec. 41.21.110. NOTICE TO PUBLIC. The penalties which may be
18 levied for littering in this state shall be posted along the public
19 highways of the state, at visitor centers, at entrances to state parks
20 and recreational areas, at public beaches, and other public places the
21 director determines necessary to accomplish the purposes of this chap-
22 ter.

23 Sec. 41.21.120. GRANTS. (a) The division shall award grants to
24 state and local government units and agencies and private organizations
25 for the establishment and operation of programs for public education and
26 motivation. Programs qualifying for a grant under this section may
27 include

28 (1) courses of instruction at, or the distribution of infor-
29 mative materials to, elementary and secondary schools;

1 (2) the purchase and erection of roadside signs;
2 (3) the organization and operation of clean-up drives con-
3 ducted by local agencies, private organizations or service groups using
4 volunteer help;

5 (4) any other public information method selected by the
6 division, including the use of media;

7 (5) the expansion of existing and the creation of new source
8 separation programs;

9 (6) the expansion of existing and the creation of new com-
10 munity recycling centers;

11 (7) the research and evaluation of in-state or out-of-state
12 markets for the materials and products to be recovered in source sepa-
13 ration and recycling programs;

14 (8) advice and assistance, including information and con-
15 sultation on available technology, operating procedures, organizational
16 arrangements, markets for recycled materials, transportation alterna-
17 tives, and publicity techniques;

18 (9) research programs and projects for the planning and de-
19 sign of resource recovery facilities, other than recycling centers; and

20 (10) surveys conducted by public agencies or recognized re-
21 search organizations to assess the amount and composition of litter,
22 rates of littering, and amounts and composition of solid waste.

23 Sec. 41.21.130. CONDITIONS FOR GRANTS. (a) Grants shall be for
24 one year only.

25 (b) The division shall require periodic reports to be filed by
26 grant recipients to enable the division to review and follow up on
27 actions taken by grant recipients to ensure that the purposes of this
28 chapter are being achieved.

29 (c) Grant recipients shall use funds only to supplement and not to

1 replace existing programs or expenditures.

2 (d) The division shall adopt regulations establishing guidelines
3 for the determination of eligibility of public and private agencies and
4 persons to receive funds and the determination of qualification and
5 suitability of plans submitted by those agencies or persons consistent
6 with the purposes of this chapter.

7 (e) To the extent applicable, the division shall consider the
8 following criteria in determining which applicants shall receive a grant
9 and the amount of the grant:

10 (1) the likelihood that a program or project will further the
11 purposes of this chapter;

12 (2) the likelihood that a program or project will become
13 economically self-sufficient at a future time;

14 (3) the likelihood that the grant will create or cause to be
15 created a maximum number of new jobs;

16 (4) the distribution of the available grant funds to programs
17 which have moderate needs in order to be successful rather than to a few
18 programs or projects which have expensive financial requirements; and

19 (5) the likelihood that the applicants will be able to co-
20 ordinate their efforts with others.

21 Sec. 41.21.140. DEFINITIONS. In this chapter,

22 (1) "department" means the Department of Community and Re-
23 gional Affairs;

24 (2) "director" means the director of the division of recy-
25 cling and litter reduction of the department;

26 (3) "division" means the division of recycling and litter
27 reduction of the department;

28 (4) "litter" means all waste materials susceptible to being
29 dropped, deposited, discarded or otherwise disposed of upon any property

1 in the state; "litter" does not include the waste of the primary pro-
2 cesses of mining or other extraction process, logging, sawmilling,
3 farming or manufacturing;

4 (5) "litter bag" means a bag, sack or other container made of
5 any material which is large enough and suitable to serve as a receptacle
6 for litter inside a vehicle or watercraft;

7 (6) "person" means any political subdivision, government
8 agency, municipality, industry, public or private corporation, partner-
9 ship, association, firm, individual, or other entity;

10 (7) "public place" means any area that is used or held out
11 for use by the public whether owned or operated by a public or private
12 interest, including but not limited to highways or other roads upon
13 which vehicles are moved, parks, campgrounds, trailer parks, drive-in
14 and fast food restaurants, gasoline service stations, parking lots for
15 taverns, shopping centers and grocery stores, parking lots other than
16 those specifically designated which have a capacity for more than 50
17 vehicles, marinas, boat launching areas, boat moorage and fueling sta-
18 tions, public and private piers, beaches, bathing areas, school grounds,
19 sporting event sites with seating capacity for more than 200 spectators,
20 and business district sidewalks;

21 (8) "recycling" means the process of separating, cleansing,
22 treating or reconstituting waste or other discarded materials for the
23 purpose of recovering and reusing resources contained in that material
24 or waste;

25 (9) "recycling center" means a central collection point for
26 recyclable materials;

27 (10) "resource recovery" means a system or process for the
28 recovery of materials or energy from waste material;

29 (11) "source separation" means separation of recyclable

1 materials by the public from their general refuse;

2 (12) "vehicle" means every mechanically driven device of any
3 kind capable of being moved upon a public highway and in, upon, or by
4 which any person or property is or may be transported or drawn upon a
5 public highway, trail or path;

6 (13) "watercraft" means any boat, ship, vessel, barge or other
7 floating craft of any kind.

8 Sec. 41.21.150. SHORT TITLE. This chapter and AS 43.71 may be
9 cited as the Alaska Comprehensive Recycling and Litter Reduction Act.

10 * Sec. 3. AS 43 is amended by adding a new chapter to read:

11 CHAPTER 71. LITTER CONTROL ASSESSMENT.

12 Sec. 43.71.010. ASSESSMENT. (a) An assessment for litter reduc-
13 tion is levied upon the gross receipts of businesses in the state. The
14 amount of the assessment levied on each business shall be determined by
15 reference to the table contained in (b) of this section. The assessment
16 shall be collected by the Department of Revenue under the administrative
17 procedures established by that department, and the proceeds of that
18 collection shall be deposited in the general fund of the state.

19 (b) The assessment imposed under (a) of this section shall be
20 determined as follows:

	amount of litter
gross receipts reported	assessment
under \$100,000 a year	none
\$ 100,000 - \$ 199,999 a year	\$ 10
\$ 200,000 - \$ 499,999 a year	\$ 25
\$ 500,000 - \$ 999,999 a year	\$ 50
\$1,000,000 - \$1,999,999 a year	\$ 100
\$2,000,000 - \$4,999,999 a year	\$ 250
\$5,000,000 - \$9,999,999 a year	\$ 500

29

1 Over \$10,000,000 a year

\$1,000 plus \$500
2 per each additional
3 \$5,000,000 in gross
4 receipts or part there-
5 of over \$10,000,000 a
6 year, up to a maximum
7 assessment of \$25,000.

8 (c) If a federal law is enacted which accomplishes or purports to
9 accomplish the same purposes as this chapter and which levies an assess-
10 ment or tax upon any business assessed under this section, then the
11 amount of the federal assessment or tax upon that business may be used
12 as a credit against the assessment levied under this chapter; however,
13 the credit may be authorized only when a portion of the funds raised by
14 the federal assessment or tax are made available to the state for acti-
15 vities funded under this chapter.

16 Sec. 43.71.020. EXEMPTIONS. The activity of growing food products
17 or raising animals for food products is exempt from the assessment on
18 gross receipts levied under sec. 10 of this chapter unless these pro-
19 ducts are packaged or containerized in disposable packing or containers
20 before their initial sale.

21 Sec. 43.71.030. DEFINITIONS. In this chapter

22 (1) "business" means any activity regularly engaged in by a
23 person or caused to be engaged in by him with the object of gain, bene-
24 fit, or advantage, either direct or indirect, and includes subactivities
25 producing marketable commodities or services used or consumed in the
26 main business activity;

27 (2) "gross receipts" means receipts from sources in the
28 state, whether in the form of money, credits, or other valuable consid-
29 eration received from engaging in or conducting a business without

1 deducting the cost of the property sold, the cost of the materials used,
2 labor or service cost, interest paid, taxes, losses, or any other ex-
3 pense, except that "gross receipts" does not include cash discounts
4 allowed and taken on sales, and sales refunds, either in cash or by
5 credit, uncollectible accounts written off, and payments received in
6 final liquidation of accounts included in the gross receipts of a pre-
7 vious return made by the person; receipts from sales, wherever made, of
8 goods, wares, and merchandise manufactured or processed or originating
9 in the state are considered a part of gross receipts from sources in the
10 state, and the holder of a state license under AS 43.70 doing business
11 inside and outside the state is liable under this chapter as to that
12 portion of his gross receipts attributable to his Alaska operation;
13 "gross receipts" also includes all amounts paid or assigned to subcon-
14 tractors; individuals representing firms taxed under this chapter on
15 volume of business done, working as agents on commission instead of as
16 employees, may compute their gross receipts as equal to their gross
17 commissions.

18 * Sec. 4. AS 11.20.590(b) and (e) are repealed.

19 * Sec. 5. NONSEVERABILITY. (a) The provisions of this Act are not
20 severable. If any provision of this Act is found by a court of competent
21 jurisdiction to be void for any reason, other than as provided in (b) of this
22 section, the remaining provisions of the Act shall be void also.

23 (b) The provisions of (a) of this section notwithstanding, if a federal
24 law is enacted which accomplishes or purports to accomplish the purposes set
25 out in this Act and which provides funding to this state for any of the acti-
26 vities authorized under this Act, but that funding would not be available to
27 the state because of any requirements or conditions contained in this Act,
28 then any and all sections or subsections of this Act which impose those re-
29 quirements or conditions shall be automatically and immediately repealed.

1 The wording of any section or subsection under this subsection shall not be
2 construed as a finding that the section or subsection is void under (a) of
3 this section and shall not affect the continuing validity and applicability
4 of any other part of this Act.

5 * Sec. 6. REVIEW AND EVALUATION. The Legislative Budget and Audit Com-
6 mittee shall review and evaluate the extent to which the purposes of this Act
7 have been and are being achieved and the need for the continuation of the
8 programs and requirements established under this Act. That review and eval-
9 uation shall be completed at least six months before the date specified in
10 sec. 7 of this Act.

11 * Sec. 7. TERMINATION. This Act terminates July 1, 1983.

12 * Sec. 8. This Act takes effect July 1, 1978.