

Introduced: 3/29/78  
Referred: Resources and  
Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SCS CS HOUSE BILL NO. 912 AM S  
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 exemption of small oil dis-  
7 charges from the penalty provisions of AS 46.03.758;  
8 and providing for an effective date."

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

10 \* Section 1. AS 46.03.758(a)(3) is amended to read:

11 (3) the handling of oil in large quantities is a hazardous  
12 undertaking which poses a significant threat to the economy and en-  
13 vironment of the state, which can be substantially reduced only by the  
14 taking of rigorous safety precautions involving considerable expense;  
15 conversely, persons handling oil in smaller amounts pose a correspon-  
16 dingly lower risk to the economy and environment of the state, and are  
17 capable of safe oil handling practices at correspondingly lower costs;  
18 in order to provide an incentive which is effective, but not punitive,  
19 it is necessary and appropriate that the assessment of civil penalties  
20 for discharges of small quantities of oil be left for case-by-case  
21 judicial determination, while insuring, through the penalty provisions  
22 of this section, that the handling of oil in large quantities occurs in  
23 a manner which will not impair the renewable resources of the state [IM-  
24 POSED REFLECT A BALANCE BETWEEN THE GRAVITY OF THE DISCHARGE, THE MAGNI-  
25 TUDE OF RISK, AND THE LEVEL OF INCENTIVE NECESSARY TO INDUCE SAFE  
26 OPERATIONS].

27 \* Sec. 2. AS 46.03.758(e) is amended to read:

28 (e) Upon the effective date of regulations adopted under (b) of  
29 this section, if a discharge of oil in excess of 5,000 gallons not

1 permitted under applicable state and federal law occurs within the  
2 territorial jurisdiction of the state, or into or upon the adjacent  
3 outer continental shelf of the state, the following persons, in addition  
4 to the person causing or permitting the discharge, are jointly and  
5 severally liable to the state, in a civil action, for the full amount of  
6 penalties established in the regulations, or \$100,000,000, whichever is  
7 less,

8 (1) if the discharge occurs from any commercial or industrial  
9 facility other than a vessel or offshore platform, the owner, lessee (or  
10 permittee), and operator of the facility;

11 (2) if the discharge occurs from a vessel,

12 (A) the owner and operator of the vessel; and

13 (B) the owner of the oil carried as cargo on the vessel  
14 at the time the vessel was loaded, if the loading occurred within  
15 the territorial jurisdiction of the state, or at a deepwater port  
16 or other offshore storage facility adjacent to the state; however,  
17 if the owner of the oil temporarily transfers ownership of the oil  
18 to another person, and the transfer has the purpose or effect of  
19 evading the vicarious liability imposed by this section, the trans-  
20 feror will be considered the owner of the oil for the purposes of  
21 this subsection; and

22 (3) if the discharge occurs from an offshore platform, the  
23 lessee (or permittee) of the tract or acreage upon which the platform is  
24 situated, and the operator of the platform.

25 \* Sec. 3. AS 46.03.758(i) is amended to read:

26 (i) Notwithstanding sec. 875 of this chapter, a person liable  
27 under this section is not also liable for the discharge of oil under  
28 sec. 760(a) of this chapter. A person causing or permitting a discharge  
29 of oil of 5,000 gallons or less not permitted under applicable state

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or federal law is liable for that discharge under the penalty provisions  
of sec. 760(a) of this chapter; however, the court may impose a penalty  
of less than \$500 for the discharge.

\* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
070(c).

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