

Original sponsor: Judiciary Committee

Offered: 4/27/78
Referred: Judiciary

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 912 *Am*

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 12,000 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 12,000 gallons or less not permitted under applicable state

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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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