

Original sponsor: Judiciary Committee

Offered: 5/19/78  
Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 912

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 civil penalties for the discharge  
7 of oil; and providing for an effective date."

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

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

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

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

27 (e) Upon the effective date of regulations adopted under (b) of  
28 this section, if a discharge of oil in excess of 12,000 gallons not  
29 permitted under applicable state and federal law occurs within the

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

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

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

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

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

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

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

25 (i) Notwithstanding sec. 875 of this chapter, a person liable  
26 under this section is not also liable for the discharge of oil under  
27 sec. 760(a) of this chapter. A person causing or permitting a discharge  
28 of oil of 12,000 gallons or less not permitted under applicable state  
29 and federal law is liable for that discharge under the penalty provi-

1 sions of sec. 760(a) of this chapter; however, the court may impose a  
2 penalty of less than \$500 for the discharge.

3 \* Sec. 4. AS 46.03.758 is amended by adding a new subsection to read:

4 (m) No later than the 10th day after the convening of the First  
5 Session of the Eleventh Legislature, the department shall submit to the  
6 legislature regulations modifying the schedule established in accordance  
7 with (b) of this section. As modified by the regulations, the schedule  
8 shall vary according to the frequency and severity of previous dis-  
9 charges by the discharger not permitted under applicable state and  
10 federal law.

11 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-  
12 070(c).

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