

Original sponsor: Rules/Governor

Offered: 3/18/80
Referred: Judiciary

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 205

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the prevention and control of oil
7 pollution; and providing for an effective date."

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

9 * Section 1. FINDINGS AND INTENT. (a) The legislature finds that

10 (1) it is a matter of the highest urgency and priority to protect
11 Alaska's coastal and inside water, estuaries, wetlands, beaches, and land
12 from the damage which may be occasioned by the discharge of oil;

13 (2) the storage, transfer, transportation, and offshore explora-
14 tion for and production of oil within the jurisdiction of the state are
15 hazardous undertakings; oil discharges may cause both short-term and long-
16 term damage to the environment and the beauty of the state, to owners and
17 users of affected property, to public and private recreation, to residents of
18 the state and other interests deriving livelihood from fishing, hunting,
19 tourism and related activities; the intensity of oil storage, exploration,
20 production, transportation, and transfer operations in Alaska presents future
21 threats of potentially catastrophic proportions, all of which are expressly
22 declared to be inimical to the paramount interests of the state as set out in
23 this section;

24 (3) assuring sufficient capability, among industrial and commercial
25 interests, and the state and federal governments, to contain and clean up
26 discharges of oil is of vital public interest; weather conditions, logistic
27 constraints and the relative paucity of labor and equipment resources in the
28 state increase the difficulty of oil discharge containment and cleanup in
29 Alaska, making imperative an active state role; it is the policy of the state

1 that, to the maximum extent practicable, prompt and adequate containment and
2 cleanup of oil discharges is the responsibility of the discharger; it is
3 therefore of the utmost importance to assure that those engaged in oil stor-
4 age, transfer, transportation, exploration, and production operations have
5 sufficient resources and capabilities to respond to oil discharges, and to
6 provide for compensation of third persons injured by those discharges; and

7 (4) the state should continue its cooperative relationships with
8 appropriate federal agencies, protecting its legitimate interests while
9 working to remove any duplicative or potentially conflicting regulatory
10 activities.

11 (b) The legislature intends by the enactment of this legislation

12 (1) to exercise the police power of the state through the Depart-
13 ment of Environmental Conservation by conferring upon the department the
14 authority and capability to deal with the hazards and threats posed by oil
15 storage, transfer, transportation, exploration and production operations in a
16 manner which is not inconsistent with the National Contingency Plan (33
17 U.S.C. sec. 1321(c), as amended) and to encourage and ensure, in accordance
18 with 33 U.S.C. sec. 1321, as amended, cooperation with the United States
19 Coast Guard and other state and federal departments and agencies;

20 (2) to require, through the maximum practicable use of private
21 services and resources, the prompt containment and cleanup of oil discharges;

22 (3) to provide assurance that persons suffering damage from oil
23 discharges will be compensated promptly;

24 (4) to provide for the inspection and supervision of oil trans-
25 portation, transfer, storage, and offshore exploration and production activi-
26 ties, and to guarantee the prompt cleanup of oil discharges and the payment
27 of costs incurred as a result of the oil discharges; and

28 (5) that oil discharge containment, cleanup or contingency measures
29 which are undertaken, directed, or authorized by the Department of Environ-

1 mental Conservation should supplement and support federal cleanup and con-
2 tainment actions under 33 U.S.C. sec. 1321, as amended.

3 * Sec. 2. AS 46 is amended by adding a new chapter to read:

4 CHAPTER 04. OIL POLLUTION CONTROL.

5 Sec. 46.04.010. REIMBURSEMENT FOR CLEANUP EXPENSES. The depart-
6 ment shall promptly seek reimbursement, either under AS 46.03.760(e) or
7 from an applicable federal fund, for the expenses it incurs in cleaning
8 up or containing a discharge of oil. If the department obtains reim-
9 bursement for a portion of its expenses from a federal fund, the re-
10 mainder of the expenses incurred may be recovered under AS 46.03.760(e).
11 Money received by the department under this section shall be deposited
12 in the general fund.

13 Sec. 46.04.020. REMOVAL OF OIL DISCHARGES. (a) A person causing
14 or permitting the discharge of oil shall immediately contain and clean
15 up the discharge. The department may waive this requirement

16 (1) if it determines, in consultation with the United States
17 Coast Guard or the United States Environmental Protection Agency, as
18 appropriate, that containment or cleanup is technically not feasible; or

19 (2) if the cleanup or containment activities would result in
20 greater environmental damage than the discharge itself.

21 (b) The containment and cleanup of discharged oil must be carried
22 out in a manner approved by the department. Wastes generated as a
23 result of containment or cleanup activities shall be disposed of in a
24 manner approved by the department. The requirement of this subsection
25 for approval of containment and cleanup activities does not apply to the
26 United States Coast Guard or United States Environmental Protection
27 Agency acting under the authority of sec. 311(c) or (d) of the Clean
28 Water Act.

29 (c) If the department determines that containment or cleanup

1 activities are not adequate, it may direct the person engaged in the
2 activities to cease and may undertake the activities itself through
3 contract or its own resources, or both. The department may not direct
4 the cessation of containment or cleanup activities undertaken by the
5 United States Coast Guard or United States Environmental Protection
6 Agency under sec. 311 of the Clean Water Act. However, the department
7 may undertake, direct, or authorize supplemental cleanup or containment
8 efforts.

9 (d) The department shall provide for the immediate containment or
10 cleanup of an oil discharge of unexplained origin unless

11 (1) the department determines, in consultation with the
12 United States Coast Guard or the United States Environmental Protection
13 Agency that containment or cleanup of the oil discharge is technically
14 not feasible; or

15 (2) the containment or cleanup activities would result in
16 greater environmental damage than the discharge itself.

17 (e) The department shall enter into negotiations for memoranda of
18 understanding or cooperative agreements with the United States Coast
19 Guard, the United States Environmental Protection Agency, and other
20 persons in order to facilitate coordinated and effective oil discharge
21 response in the state.

22 Sec. 46.04.025. CONFIDENTIAL INFORMATION. The department may
23 maintain the confidentiality of a manufacturer's proprietary technical
24 information relating to chemical and biological agents used to control
25 or mitigate the effects of an oil discharge. The department may refuse
26 to release the information unless the manufacturer authorizes its release
27 or unless a court orders its release. The department may provide the
28 information to the Department of Fish and Game and other state and
29 federal agencies if the department or other agency requesting the infor-

1 mation agrees to maintain its confidentiality.

2 Sec. 46.04.030. OIL DISCHARGE CONTINGENCY PLANS. (a) A person
3 may not cause or permit the operation of an oil terminal facility in the
4 state unless an oil discharge contingency plan for the facility has been
5 approved by the department.

6 (b) After January 1, 1981, a person may not cause or permit the
7 operation of an offshore exploration or production facility in the state
8 unless an oil discharge contingency plan for the facility has been
9 approved by the department.

10 (c) A person may not cause or permit the transfer of oil to or
11 from a tank vessel, or, after January 1, 1981, to or from an oil barge,
12 unless an oil discharge contingency plan for the tank vessel or oil
13 barge has been approved by the department. Except for prosecutions
14 under AS 46.03.790(b), it is not a defense to an action brought for
15 violation of this subsection that the person charged believed that a
16 current oil discharge contingency plan for the tank vessel or oil barge
17 had been approved by the department.

18 (d) An oil discharge contingency plan must be renewed at least
19 every three years.

20 (e) The department may attach reasonable terms and conditions to
21 its approval of an oil discharge contingency plan which it determines
22 are necessary to insure that the applicant for an oil discharge con-
23 tingency plan has access to sufficient resources to protect environ-
24 mentally sensitive areas and to contain, clean up, and mitigate poten-
25 tial oil discharges from the facility or vessel within the shortest
26 feasible time. The plan must provide for the use of the best available
27 technology by the applicant. The department may require an applicant to
28 undertake discharge exercises.

29 (f) The department, after notice and opportunity for hearing, may

1 modify its approval of an oil discharge contingency plan if it deter-
2 mines that a change has occurred in the operation of a facility, marina
3 or vessel necessitating an amended or supplemented plan, or the opera-
4 tor's discharge experience demonstrates a necessity for modification.
5 The department, after notice and opportunity for hearing, may revoke its
6 approval of a contingency plan if it determines that

- 7 (1) approval was obtained by fraud or misrepresentation;
8 (2) the operator does not have access to the quality or
9 quantity of resources identified in the plan; or
10 (3) a term or condition of approval has been violated.

11 Sec. 46.04.040. PROOF OF FINANCIAL RESPONSIBILITY. (a) A person
12 may not cause or permit the operation of an oil terminal facility in the
13 state unless he has furnished proof of financial ability to respond in
14 damages which has been accepted by the department. Ability to respond
15 in damages need not exceed \$50,000,000 but must be in an amount (1) not
16 less than \$10, per incident, for each barrel of storage capacity at the
17 oil terminal facility; or (2) \$1,000,000, whichever is greater.

18 (b) After January 1, 1981, a person may not cause or permit the
19 operation of an offshore exploration or production facility in the state
20 unless proof of financial ability to respond in damages has been ac-
21 cepted by the department. Proof of financial responsibility may not be
22 less than \$35,000,000 per incident.

23 (c) A person may not cause or permit the transfer of oil to or
24 from a tank vessel, or, after January 1, 1981, to or from an oil barge,
25 unless proof of financial responsibility for the tank vessel or barge
26 has been accepted by the department. Financial responsibility under
27 this subsection shall be in the following amounts:

- 28 (1) for a tank vessel or oil barge involved in the transpor-
29 tation of trans-Alaska pipeline oil, the amount required by the Federal

1 Maritime Commission under sec. 304(c)(3) of the Trans-Alaska Pipeline
2 Authorization Act (43 U.S.C. sec. 1653(c)(3)), as amended; and

3 (2) for any other oil barge, the amount required by sec.
4 311(b)(1) of the Clean Water Act, or \$1,000,000, whichever is greater;

5 (3) for any other tank vessels, the amount required by sec.
6 311(b)(1) of the Clean Water Act, or \$20,000,000, whichever is greater.

7 (d) Except for prosecutions under AS 46.03.790(b), it is not a
8 defense to an action brought for violation of (c) of this section that
9 the person charged believed in good faith that the vessel operator
10 possessed proof of financial responsibility accepted by the department.

11 (e) Financial responsibility may be demonstrated by self-insur-
12 ance, insurance, surety, or guarantee, under terms the department may
13 prescribe. An action brought under AS 46.03.758, 46.03.760(a) or (e),
14 or 46.03.822 may be brought in a state court directly against the in-
15 surer or another person providing evidence of financial responsibility.
16 The applicant, and an insurer, surety, or guarantor shall appoint an
17 agent for service of process in the state. An insurer must either be
18 authorized by the Department of Commerce and Economic Development to
19 sell insurance in the state or be an unauthorized insurer listed by the
20 Department of Commerce and Economic Development as not disapproved for
21 use in the state.

22 (f) Acceptance of proof of financial responsibility expires

23 (1) one year from its issuance for self-insurance;

24 (2) on the effective date of a change in the surety bond,
25 guarantee, or insurance agreement; or

26 (3) on the expiration or cancellation of the surety bond,
27 guarantee, or insurance agreement.

28 (g) The person whose proof of financial responsibility is accepted
29 by the department under this section shall notify the department at

1 least 30 days before the effective date of a change, expiration or
2 cancellation in the surety bond, guarantee, or insurance agreement.
3 Application for renewal of acceptance of proof of financial responsi-
4 bility under this section must be filed at least 30 days before the date
5 of expiration.

6 (h) The department, after notice and hearing, may revoke accep-
7 tance of proof of financial responsibility if it determines that

- 8 (1) acceptance was procured by fraud or misrepresentation; or
9 (2) a change of circumstance has occurred other than a change
10 specified in (f)(1) - (3) of this section, which would have warranted
11 denial of the application.

12 (j) Financial responsibility under this section extends to a loss
13 compensable under AS 46.03.760(e) or 46.03.822 and an assessment under
14 AS 46.03.758 or 46.03.760(a).

15 Sec. 46.04.050. EXEMPTIONS. Because of the restricted nature of
16 these operations and the minimal danger to the environment posed by
17 their activities, AS 46.04.030, 46.04.040 and 46.04.060 do not apply to
18 an oil terminal facility that has an effective storage capacity of less
19 than 10,000 barrels of oil.

20 Sec. 46.04.060. INSPECTIONS. Oil terminal facilities, offshore
21 exploration and production facilities, tank vessels, and oil barges are
22 subject to inspection by the department to ensure compliance with the
23 provisions of this chapter.

24 Sec. 46.04.070. SCOPE OF REGULATIONS. The department shall adopt
25 regulations which are necessary to carry out the purposes of this chap-
26 ter and which do not conflict with and are not preempted by federal law
27 or regulations, including provisions concerning the following:

- 28 (1) operation, inspection, and abandonment requirements for
29 oil terminal facilities, tank vessels, oil barges, and offshore explora-

- 1 tion and production facilities;
- 2 (2) procedures and methods of reporting oil discharges and
3 other occurrences prohibited or regulated by this chapter;
- 4 (3) procedures and methods for the transfer of oil between a
5 tank vessel or oil barge and an oil terminal facility;
- 6 (4) procedures, methods, means, and equipment to be used in
7 the abatement, containment, or removal of oil discharges;
- 8 (5) development and implementation of criteria and plans to
9 meet oil discharges, including regulation of the use of chemical or
10 biological agents;
- 11 (6) requirements for the safety and operation of tank ves-
12 sels, oil barges, motor vehicles, motorized equipment and other equip-
13 ment relating to the use and operation of terminals and offshore ex-
14 ploration and production facilities;
- 15 (7) minimum personnel, equipment, and operations standards
16 for oil discharge cleanup services; and
- 17 (8) other matters the department considers necessary to carry
18 out the purposes of this chapter.

19 Sec. 46.04.080. CATASTROPHIC OIL DISCHARGES. (a) The actual or
20 imminent occurrence of a catastrophic oil discharge constitutes a
21 disaster emergency under AS 26.23. However, the department shall per-
22 form the duties of the Alaska division of emergency services under
23 AS 26.23.040 as they apply to catastrophic oil discharges. The de-
24 partment shall consult and coordinate its duties under this section with
25 the Alaska division of emergency services.

26 (b) The department shall promptly, under AS 46.04.010, seek reim-
27 bursement of oil discharge cleanup or containment expenses incurred as a
28 result of an actual or imminent catastrophic oil discharge under AS 26.-
29 23.050.

1 Sec. 46.04.090. OIL DISCHARGE CLEANUP PERSONNEL, EQUIPMENT, EX-
2 PENSES. (a) The department may establish and maintain at ports, har-
3 bors, or other locations in the state, the personnel, equipment, and
4 supplies which, in its judgment, are necessary to carry out this chap-
5 ter. When feasible, the department shall enter into contracts with
6 persons or private organizations to provide the personnel, equipment, or
7 other services or supplies which may be required to carry out this
8 chapter.

9 (b) Inspection and enforcement employees of the department desig-
10 nated by the commissioner are peace officers in the performance of their
11 duties under this chapter and AS 46.03.

12 Sec. 46.04.100. COMPACTS AUTHORIZED. The governor may execute
13 supplementary agreements, reciprocal arrangements, or compacts with any
14 other state or country, subject to the approval, if required by the
15 United States Constitution, of the Congress of the United States, for
16 the purpose of implementing this chapter.

17 Sec. 46.04.110. MUNICIPAL POWERS LIMITED. If a conflict occurs
18 between a provision of this chapter, or a regulation, order, decision,
19 or other determination of the department under this chapter, and a
20 charter, ordinance, permit, regulation, franchise, decision, or other
21 determination of a municipality, the provisions of this chapter or the
22 regulation, order, decision, or other determination of the department
23 prevail. However, nothing in this chapter precludes a municipality, by
24 ordinance or regulation, from exercising its police powers in the area
25 regulated by this chapter.

26 Sec. 46.04.120. DEFINITIONS. In this chapter, unless the context
27 requires otherwise,

28 (1) "barrel" is a measure of capacity equal to the space
29 occupied by 42 U.S. gallons at 60 degrees Fahrenheit;

1 (2) "catastrophic oil discharge" means an oil discharge in
2 excess of 100,000 barrels, or any other discharge which the governor
3 determines presents a grave and substantial threat to the economy or
4 environment of the state;

5 (3) "Clean Water Act" means the Federal Water Pollution
6 Control Act of 1972 (P.L. 92-500), as amended by the Clean Water Act of
7 1977 (P.L. 95-217), as amended;

8 (4) "commissioner" means the commissioner of environmental
9 conservation;

10 (5) "containment and cleanup" includes all direct and in-
11 direct efforts associated with the prevention, abatement, containment or
12 removal of a pollutant, the restoration of the environment to its former
13 state, and all incidental administrative costs;

14 (6) "department" means the Department of Environmental Con-
15 servation;

16 (7) "discharge" means spilling, leaking, pumping, pouring,
17 emitting, emptying, or dumping;

18 (8) "limited capacity facility" means a small tank farm,
19 small bulk fuel storage facility, or other onshore facility which is
20 used to store refined petroleum products or their by-products, except
21 asphalt, and which is used in the business of servicing the requirements
22 of transporters and vendors of refined petroleum products or their
23 by-products, or of storing the fuel requirements for village domestic,
24 school, or commercial use, including but not limited to fish processing,
25 logging operations, construction projects, or electric power generation;

26 (9) "marina" means a facility used in the business, whether
27 onshore or offshore, of servicing the fuel requirements of aircraft,
28 pleasure watercraft, fishing boats, and other commercial vessels, when
29 the purchaser and the consumer are the same entity, and the fuel capa-

1 city of the servicing vessel and of the serviced vessel is less than
2 10,000 barrels of refined petroleum products or their by-products, and
3 is not covered by the definition of limited capacity facility in (8) of
4 this section;

5 (10) "offshore exploration or production facility" means a
6 platform, vessel or other facility used to explore for or produce hydro-
7 carbons in the waters of the state; the term does not include vessels
8 used for stratigraphic drilling or other operations which are not autho-
9 rized or intended to drill to a producing formation;

10 (11) "oil" means oil of any kind and in any form, whether
11 crude, refined, or a petroleum by-product, including but not limited to
12 petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil re-
13 fuse, oil mixed with other wastes, crude oils, liquefied natural gas,
14 propane, butane, or other liquid hydrocarbons regardless of specific
15 gravity;

16 (12) "oil barge" means a vessel which is not self-propelled
17 and which is constructed or converted to carry oil as cargo in bulk;

18 (13) "oil terminal facility" means an onshore or offshore
19 facility of any kind, and related appurtenances, including but not
20 limited to a deepwater port, bulk storage facility or marina, located
21 in, on, or under the surface of the land or waters of the state, in-
22 cluding tide and submerged land, which is used for the purpose of trans-
23 ferring, processing, refining, or storing oil; a vessel is considered an
24 oil terminal facility only when it is used to make a ship-to-ship trans-
25 fer of oil, and when it is traveling between the place of the ship-to-
26 ship transfer of oil and an oil terminal facility;

27 (14) "operator" means a person who, through contract, lease,
28 sublease or otherwise, exerts general supervision and control of activi-
29 ties at the facility; the term includes, by way of example and not

1 limitation, prime or general contractors, the master of a vessel and his
2 employer, or any other person who, through himself, his agents, or
3 contractors, undertakes the general functioning of the facility;

4 (15) "person" means an individual, public or private corpora-
5 tion, political subdivision, government agency, municipality, industry,
6 partnership, association, firm, trust, estate, or any other entity;

7 (16) "self-propelled" means propelled either by machinery
8 aboard the vessel, or by a tug or other vessel secured into the cargo-
9 carrying vessel through special hull design;

10 (17) "tank vessel" means a self-propelled vessel that is
11 constructed or converted to carry liquid bulk cargo in tanks and in-
12 cludes tankers, tankships, and combination carriers when carrying oil;
13 the term does not include vessels carrying oil in drums, barrels, or
14 other packages, or vessels carrying oil as fuel or stores for that
15 vessel;

16 (18) "vessel" includes tank vessels and oil barges;

17 (19) "waters of the state" includes lakes, bays, sounds,
18 ponds, impounding reservoirs, springs, wells, rivers, streams, creeks,
19 estuaries, marshes, inlets, straits, passages, canals, the Pacific
20 Ocean, Gulf of Alaska, Bering Sea and Arctic Ocean, in the territorial
21 limits of the state, and all other bodies of surface or underground
22 water, natural or artificial, public or private, inland or coastal,
23 fresh or salt, which are wholly or partially in or bordering the state
24 or under the jurisdiction of the state.

25 * Sec. 3. AS 46.03.750 is repealed and re-enacted to read:

26 Sec. 46.03.750. BALLAST WATER DISCHARGE. (a) Except as provided
27 in (b) of this section, a person may not cause or permit the discharge
28 of ballast water from a cargo tank of a tank vessel into the waters of
29 the state. A tank vessel may not take on petroleum or a petroleum

1 product or by-product as cargo unless it arrives in ports in the state
2 without having discharged ballast from cargo tanks into the waters of
3 the state and the master of the vessel certifies that fact on forms
4 provided by the department.

5 (b) The master of a tank vessel may discharge ballast water from a
6 cargo tank of his tank vessel if it is necessary for the safety of the
7 tank vessel and no alternative action is feasible to assure the safety
8 of the tank vessel.

9 * Sec. 4. AS 46.03.755(a) is amended to read:

10 (a) A person in charge of a facility, operation or vessel, as soon
11 as he has knowledge of any discharge from the facility, operation or
12 vessel in violation of AS 46.03.740 or 46.03.750 [OR AS 30.25.020,]
13 shall immediately notify the department of the discharge.

14 * Sec. 5. AS 46.03.760(a) is amended to read:

15 (a) A person who violates or causes or permits to be violated a
16 provision of this chapter or AS 46.04 [AS 30.25.020], or a regulation, a
17 lawful order of the department, or a permit, approval, or acceptance [OR
18 CERTIFICATE], or term or condition of a permit, approval, or acceptance
19 [OR CERTIFICATE] issued under this chapter or AS 46.04 [AS 30.25] is
20 liable, in a civil action, to the state for a sum to be assessed by the
21 court of not less than \$500 nor more than \$100,000 for the initial
22 violation, nor more than \$5,000 for each day thereafter on which the
23 violation continues, and which shall reflect, when applicable,

24 (1) reasonable compensation in the nature of liquidated
25 damages for any adverse environmental effects caused by the violation,
26 which shall be determined by the court according to the toxicity, de-
27 gradability and dispersal characteristics of the substance discharged,
28 the sensitivity of the receiving environment, and the degree to which
29 the discharge degrades existing environmental quality;

1 (2) reasonable costs incurred by the state in detection,
2 investigation, and attempted correction of the violation [, EXCEPT
3 DISBURSEMENTS FOR POLLUTION ABATEMENT COSTS UNDER AS 30.25.260(a)(2)];
4 and

5 (3) the economic savings realized by the person in not com-
6 plying with the requirement for which a violation is charged.

7 * Sec. 6. AS 46.03.760(e) is amended to read:

8 (e) In addition to liability under (a) - (d) of this section, a
9 person who violates or causes or permits to be violated a provision of
10 AS 46.03.740 - 46.03.750 is liable to the state, in a civil action
11 brought under AS 46.03.822, for the full amount of actual damages caused
12 to the state by the violation, including direct and indirect costs
13 associated with the abatement, containment or removal of the pollutant,
14 restoration of the environment to its former state, and all incidental
15 administrative costs. [THAT PORTION OF THE DAMAGES RECOVERED BY THE
16 STATE IN A CIVIL ACTION BROUGHT UNDER AS 46.03.822 ATTRIBUTABLE TO COSTS
17 INCURRED BY THE DEPARTMENT IN THE ABATEMENT, CONTAINMENT OR REMOVAL OF
18 THE POLLUTANT RESULTING FROM A DISCHARGE OF CRUDE OIL, REFINED PETROLEUM
19 PRODUCTS OR THEIR BY-PRODUCTS SHALL BE DEPOSITED IN THE COASTAL PROTEC-
20 TION FUND CREATED UNDER AS 30.25.220. EXCEPT FOR SPECIAL RISK CHARGES
21 COLLECTED UNDER AS 30.25.270, A PERSON HOLDING A RISK AVOIDANCE CERTIFI-
22 CATE MAY NOT BE HELD LIABLE FOR COSTS ASSOCIATED WITH THE ABATEMENT,
23 CONTAINMENT OR REMOVAL OF THE POLLUTANT.]

24 * Sec. 7. AS 46.03.765 is amended to read:

25 Sec. 46.03.765. INJUNCTIONS. The superior court has jurisdiction
26 to enjoin a violation of this chapter or AS 46.04 [AS 30.25], or of a
27 regulation, lawful order of the department, or permit, approval, or ac-
28 ceptance [OR CERTIFICATE], or term or condition of a permit, approval,
29 or acceptance [OR CERTIFICATE] issued under this chapter or AS 46.04

1 [AS 30.25]. In actions brought under this section, temporary or pre-
2 liminary relief may be obtained upon a showing of an imminent threat of
3 continued violation, and probable success on the merits, without the
4 necessity of demonstrating physical irreparable harm. The balance of
5 equities in actions under this section may affect the timing of com-
6 pliance, but not the necessity of compliance within a reasonable period
7 of time.

8 * Sec. 8. AS 46.03.790(a) is amended to read:

9 (a) A person who violates or who causes or permits a violation of
10 a provision of this chapter or AS 46.04 [AS 30.25], or of a regulation,
11 lawful order of the department, or permit, approval, or acceptance [OR
12 CERTIFICATE], or term or condition of a permit, approval, or acceptance
13 [OR CERTIFICATE] issued under this chapter or AS 46.04 [AS 30.25] is
14 guilty of a violation [MISDEMEANOR AND, UPON CONVICTION, IS PUNISHABLE
15 BY A FINE OF NOT MORE THAN \$25,000 AND COSTS OF PROSECUTION].

16 * Sec. 9. AS 46.03.790(b) is amended to read:

17 (b) A person who wilfully violates a provision of this chapter, or
18 of a regulation, lawful order of the department, or permit, approval, or
19 acceptance [OR CERTIFICATE], or term or condition of a permit, approval,
20 or acceptance [OR CERTIFICATE] issued under this chapter or AS 46.04
21 [AS 30.25] is guilty of a misdemeanor [AND, UPON CONVICTION, IS PUNISH-
22 ABLE BY A FINE OF NOT MORE THAN \$25,000 AND COSTS OF PROSECUTION, OR BY
23 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY FINE, COSTS, AND IMPRI-
24 SONMENT].

25 * Sec. 10. AS 44.19.171(b)(2) is amended to read:

26 (2) to alleviate the effects of a disaster as defined in
27 AS 44.19.175 occurring after October 11, 1967, by making loans or grants
28 to persons or municipalities on terms the governor considers appropriate
29 or by other means the governor considers appropriate.

1 * Sec. 11. AS 30.20 and AS 30.25 are repealed.

2 * Sec. 12. The Department of Environmental Conservation shall prepare a
3 report describing the status of the negotiations required by AS 46.04.020(e)
4 and shall submit the report to the legislature no later than the 60th day of
5 the First Session of the Twelfth Legislature.

6 * Sec. 13. (a) An oil spill contingency plan approved between July 1,
7 1979, and June 30, 1980, under AS 30.25, as it existed before the effective
8 date of this Act, is an approved plan for the purposes of AS 46.04.030, and
9 may be renewed in accordance with AS 46.04.030(d).

10 (b) A proof of financial responsibility accepted under AS 30.25 may be
11 used to satisfy the requirements of AS 46.04.040 if the acceptance has not
12 expired before July 1, 1980; however, the acceptance expires in accordance
13 with AS 46.04.040(f) or on January 1, 1981, whichever occurs first.

14 * Sec. 14. This Act takes effect July 1, 1980.
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