

Original sponsor: Kerttula

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1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 29 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to nuclear materials and extremely
7 hazardous and hazardous wastes; and providing for an
8 effective date."

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

10 * Section 1. AS 18.45 is amended by adding a new section to read:

11 Sec. 18.45.100. NUCLEAR FACILITIES PROHIBITED. A person may not
12 construct a nuclear fuel production facility, a nuclear utilization
13 facility, a nuclear reprocessing facility, or a nuclear enhancement
14 facility in the state.

15 * Sec. 2. AS 18.45 is amended by adding new sections to read:

16 Sec. 18.45.110. HIGH LEVEL NUCLEAR WASTE DISPOSAL FACILITY SITING
17 PERMIT REQUIRED. (a) A person may not construct a high level nuclear
18 waste disposal facility in the state unless he has first obtained a
19 permit from the department to construct the facility on land designated
20 by the legislature under (b) of this section.

21 (b) The legislature shall designate by law the land in the state
22 on which a high level nuclear waste disposal facility may be located.

23 (c) The department shall adopt regulations governing the issuance
24 of permits required by (a) of this section. However, a permit may not
25 be issued by the department unless

26 (1) the governor has approved the permit;

27 (2) local approval has been obtained; local approval is
28 obtained

29 (A) if the municipality with jurisdiction over the

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UNITED STATES DEPARTMENT OF JUSTICE

- 1 proposed facility site has approved the permit; and
- 2 (B) if the facility is to be located in the unorganized
- 3 borough, a majority of the registered voters who live within 100
- 4 miles of the proposed facility votes to approve the issuance of
- 5 the permit for the facility at a general or special election of
- 6 the state called for the purpose; and
- 7 (3) issuance of the permit is approved by a majority of the
- 8 registered voters at a general or special statewide election.

9 Sec. 18.45.120. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED FOR
10 FACILITY OPERATION. (a) A person may not operate a high level nuclear
11 waste disposal facility unless he has furnished proof to the commis-
12 sioner of financial ability to care in perpetuity for the nuclear
13 material which will be used in the facility. Financial responsibility
14 may be demonstrated by self-insurance, insurance, surety, or guarantee,
15 under terms the department may prescribe.

16 (b) Acceptance of proof of financial responsibility under this
17 section expires

- 18 (1) one year from its issuance for self-insurance;
- 19 (2) on the effective date of a change in the surety bond,
20 guarantee, or insurance agreement; or
- 21 (3) on the expiration or cancellation of the surety bond,
22 guarantee, or insurance agreement.

23 (c) The person whose proof of financial responsibility is accepted
24 by the department under this section shall notify the department at
25 least 30 days before the effective date of a change, expiration or
26 cancellation in the surety bond, guarantee, or insurance agreement.
27 Application for renewal of acceptance of proof of financial responsi-
28 bility under this section must be filed at least 30 days before the
29 date of expiration.

1 (d) The department, after notice and hearing, may revoke accep-
2 tance of proof of financial responsibility if it determines that

3 (1) acceptance was procured by fraud or misrepresentation;
4 or

5 (2) a change of circumstance has occurred, other than a
6 change specified in (b)(1) - (3) of this section, which would have
7 warranted denial of the application.

8 * Sec. 3. AS 18.45.110(a) is amended to read:

9 Sec. 18.45.110. FACILITIES [HIGH LEVEL NUCLEAR WASTE DISPOSAL
10 FACILITY] SITING PERMIT REQUIRED. (a) A person may not construct a
11 nuclear fuel production facility, nuclear utilization facility, nuclear
12 reprocessing facility, nuclear enhancement facility, or high level
13 nuclear waste disposal facility in the state unless he has first ob-
14 tained a permit from the department to construct the facility on land
15 designated by the legislature under (b) of this section.

16 * Sec. 4. AS 18.45.110(b) is amended to read:

17 (b) The legislature shall designate by law the land in the state
18 on which a nuclear fuel production, utilization, reprocessing, enhance-
19 ment, or high level nuclear waste disposal facility may be located.

20 * Sec. 5. AS 18.45.120(a) is amended to read:

21 (a) A person may not operate a nuclear fuel production facility,
22 a nuclear utilization facility, a nuclear reprocessing facility, a nu-
23 clear enhancement facility, or a high level nuclear waste disposal
24 facility unless he has furnished proof to the commissioner of financial
25 ability to care in perpetuity for the nuclear material which will be
26 used in the facility. Financial responsibility may be demonstrated by
27 self-insurance, insurance, surety, or guarantee, under terms the depart-
28 ment may prescribe.

29 * Sec. 6. AS 18.45 is amended by adding new sections to read:

1 Sec. 18.45.130. TRANSPORTATION OF NUCLEAR WASTE MATERIAL. (a)

2 The transportation of high level nuclear waste material, except for
3 purposes of disposal outside the state, is prohibited.

4 (b) A person may not transport low level nuclear waste material
5 in the state unless he has first obtained a permit from the department.
6 The department shall adopt regulations governing the issuance of permits
7 required by this subsection, and shall establish and implement a system
8 to record by manifest the movement of low level nuclear waste materials
9 which are transported.

10 (c) The provisions of (a) and (b) of this section do not apply to
11 the transportation of nuclear waste material by the federal government.
12 When the federal government proposes to transport nuclear waste material
13 in the state, the agency of the federal government shall notify the
14 commissioner and the Department of Public Safety of its plans. When
15 notification is received from the federal agency, the commissioner and
16 the commissioner of public safety may take any action they regard as
17 necessary to protect the health and safety of persons in the vicinity
18 of the route used to transport the nuclear waste material. The notifi-
19 cation provisions of this subsection do not apply if advance notice to
20 the commissioner would represent a threat to national security.

21 Sec. 18.45.140. STORAGE AND DISPOSAL OF NUCLEAR WASTE MATERIAL.

22 (a) The storage and disposal in the state of nuclear waste material
23 which would constitute a threat to the health or safety of the public
24 is prohibited.

25 (b) The provisions of (a) of this section do not apply to

26 (1) material of a kind or quantity which, when stored or
27 disposed, would not constitute a threat to the health or safety of the
28 public as determined by the department under AS 46.03.250 by regula-
29 tion;

- 1 (2) radioactive materials used in medicine; and
2 (3) radioactive materials, not exceeding an amount deter-
3 mined by the department by regulation under AS 46.03.250, used in
4 education, x-ray or photographic process testing, security screening,
5 or scientific research which are stored or disposed of in conformity
6 with procedures established by the department by regulation.

7 Sec. 18.45.150. PROOF OF RESPONSIBILITY FOR DISPOSAL OF HIGH
8 LEVEL NUCLEAR WASTES REQUIRED. (a) A person may not dispose of high
9 level nuclear wastes in the state unless he has furnished proof to the
10 commissioner of financial ability to care for the disposed nuclear
11 waste material. Financial responsibility may be demonstrated by self-
12 insurance, insurance, surety, or guarantee, under terms the department
13 may prescribe.

14 (b) Acceptance of proof of financial responsibility under this
15 section expires

- 16 (1) one year from its issuance for self-insurance;
17 (2) on the effective date of a change in the surety bond,
18 guarantee, or insurance agreement; or
19 (3) on the expiration or cancellation of the surety bond,
20 guarantee, or insurance agreement.

21 (c) The person whose proof of financial responsibility is accepted
22 by the department under this section shall notify the department at
23 least 30 days before the effective date of a change, expiration or
24 cancellation in the surety bond, guarantee, or insurance agreement.
25 Application for renewal of acceptance of proof of financial responsi-
26 bility under this section must be filed at least 30 days before the
27 date of expiration.

28 (d) The department, after notice and hearing, may revoke accept-
29 ance of proof of financial responsibility if it determines that

1 (1) acceptance was procured by fraud or misrepresentation;

2 or

3 (2) a change of circumstance has occurred, other than a
4 change specified in (b)(1) - (3) of this section, which would have
5 warranted denial of the application.

6 Sec. 18.45.160. PENALTIES. (a) A person who violates a provision
7 of AS 18.45.130 - 18.45.140 is guilty of a class C felony.

8 (b) In addition to the penalty prescribed for a class C felony
9 under AS 12.55.035(b)(2) and (c), a corporation which violates a
10 provision of AS 18.45.130 - 18.45.140 is subject to

11 (1) a penalty of \$50,000 for each offense; each day that the
12 violation continues constitutes a separate offense;

13 (2) the payment to the state of expenses incurred by the
14 state in removing, correcting, or abating the adverse effects of the
15 violation; and

16 (3) actual damages resulting from the violation.

17 Sec. 18.45.170. DEFINITIONS. In AS 18.45.100 - 18.45.170,

18 (1) "commissioner" means the commissioner of environmental
19 conservation;

20 (2) "department" means the Department of Environmental
21 Conservation;

22 (3) "high level nuclear waste" means

23 (A) used nuclear reactor fuel;

24 (B) waste produced during the reprocessing of used
25 nuclear reactor fuel; and

26 (C) elements having an atomic number greater than 92
27 and emitting 10 or more nanocuries per gram;

28 (4) "low level nuclear waste" means a radioactive waste
29 other than a high level nuclear waste; and

1 (5) "manifest" means a shipping or storage document contain-
2 ing a list of the contents, value, origin, carrier, and destination of
3 the nuclear waste materials to be transported, required to be carried
4 by the person providing transportation of the wastes.

5 * Sec. 7. AS 46.03.250 is amended to read:

6 Sec. 46.03.250. AUTHORITY. The department shall adopt regula-
7 tions

8 (1) establishing standards governing the discharge of low
9 level radiation [RADIONUCLIDES] to the air, water, land, and subsurface
10 land of the state;

11 (2) defining nuclear waste material which does not consti-
12 tute a threat to public health or safety and which may be stored or
13 disposed in the state; and

14 (3) establishing procedures for the storage and disposal of
15 radioactive materials used in medicine, education, x-ray or photo-
16 graphic process testing, security screening, or scientific research.

17 * Sec. 8. AS 46.03.260 is amended to read:

18 Sec. 46.03.260. USE OF NUCLEAR [ATOMIC] RADIATION. A person who
19 conducts an operation which results in the discharge of low level
20 radiation [RADIONUCLIDES] to the air, water, land or subsurface land of
21 the state must obtain a permit from the department before commencing
22 the discharge.

23 * Sec. 9. AS 46.03.790(a) is amended to read:

24 (a) A person who violates or who causes or permits a violation of
25 a provision of this chapter or AS 46.04, or of a regulation, lawful
26 order of the department, or permit, approval, or acceptance, or term or
27 condition of a permit, approval, or acceptance issued under this chapter
28 or AS 46.04 is guilty of a class B misdemeanor [VIOLATION].

29 * Sec. 10. AS 46.03.790(b) is amended to read:

1 (b) A person who wilfully violates a provision of this chapter,
2 or of a regulation, lawful order of the department, or permit, approval,
3 or acceptance, or term or condition of a permit, approval, or accept-
4 ance issued under this chapter or AS 46.04 is guilty of a class A
5 misdemeanor.

6 * Sec. 11. AS 46.03.900 is amended by adding a new paragraph to read:

7 (30) "low level nuclear waste" means a radioactive waste
8 other than

9 (A) used nuclear reactor fuel;

10 (B) waste produced during the reprocessing of used
11 nuclear reactor fuel; and

12 (C) elements having an atomic number greater than 92
13 and emitting 10 or more nanocuries per gram.

14 * Sec. 12. AS 46.03.020(10)(H) is amended to read:

15 (H) any other purpose which [SUCH OTHER PURPOSES AS]
16 may be required to implement [FOR THE IMPLEMENTATION OF] the
17 policy declared in AS 46.03.010;

18 * Sec. 13. AS 46.03.020(10) is amended by adding a new subparagraph to
19 read:

20 (I) procedures required to handle, transport, treat,
21 store, and dispose of extremely hazardous wastes and hazardous
22 wastes;

23 * Sec. 14. AS 46 is amended by adding a new chapter to read:

24 CHAPTER 32. WASTES.

25 Sec. 46.32.010. DISPOSAL OF EXTREMELY HAZARDOUS WASTES. (a) It
26 is unlawful to dispose of extremely hazardous wastes in the state
27 without a permit issued by the department.

28 (b) A permit may be issued by the department only for the disposal
29 of extremely hazardous wastes which, when disposed of, will ensure the

1 protection of human health, livestock, wildlife, property, and the
2 environment.

3 Sec. 46.32.020. DISPOSAL OF HAZARDOUS WASTES. (a) It is un-
4 lawful to dispose of hazardous wastes in the state unless

5 (1) the waste has been processed to remove its harmful
6 properties to the maximum extent feasible; or

7 (2) it is disposed of in a manner which will ensure the
8 protection of human health, livestock, wildlife, property, and the
9 environment.

10 (b) The department shall adopt regulations in accordance with the
11 Administrative Procedure Act (AS 44.62) for the disposal of hazardous
12 wastes to ensure the protection of human health, livestock, wildlife,
13 property, and the environment.

14 Sec. 46.32.030. TRANSPORTATION OF EXTREMELY HAZARDOUS WASTES.

15 (a) The transportation of extremely hazardous wastes, except for
16 purposes of disposal in accordance with AS 46.32.010(b), is prohibited.

17 (b) A person may not transport extremely hazardous wastes in the
18 state unless he first obtains a permit from the department. The depart-
19 ment shall adopt regulations governing the issuance of permits required
20 by this subsection, and shall establish and implement a system to
21 record by manifest the movement of extremely hazardous wastes which are
22 transported.

23 (c) The provisions of (a) and (b) of this section do not apply to
24 the transportation of extremely hazardous wastes by the federal govern-
25 ment. When the federal government proposes to transport extremely
26 hazardous wastes in the state, the agency of the federal government
27 shall notify the commissioner and the Department of Public Safety of
28 its plans. When notification is received from the federal agency, the
29 commissioner and the commissioner of public safety may take any action

1 they regard as necessary to protect the health and safety of persons in
2 the vicinity of the route used to transport the extremely hazardous
3 wastes. The notification provisions of this subsection do not apply if
4 advance notice to the commissioner would represent a threat to national
5 security.

6 Sec. 46.32.040. TRANSPORTATION OF HAZARDOUS WASTES. (a) The
7 department shall establish and implement a system to record by manifest
8 the movement of hazardous wastes in excess of 1,000 kilograms per month
9 which are transported.

10 (b) A person may not transport hazardous wastes in excess of
11 1,000 kilograms per month in the state unless he transports the hazar-
12 dous wastes in accordance with (a) of this section.

13 (c) The provisions of (a) and (b) of this section do not apply to
14 the transportation of hazardous wastes by the federal government. When
15 the federal government proposes to transport hazardous wastes in the
16 state, the agency of the federal government shall notify the commis-
17 sioner and the Department of Public Safety of its plans. When notifica-
18 tion is received from the federal agency, the commissioner and the
19 commissioner of public safety may take any action they regard as neces-
20 sary to protect the health and safety of persons in the vicinity of the
21 route used to transport the hazardous wastes. The notification provi-
22 sions of this subsection do not apply if advance notice to the commis-
23 sioner would represent a threat to national security.

24 Sec. 46.32.050. DEPARTMENT TO DEFINE EXTREMELY HAZARDOUS WASTES
25 AND HAZARDOUS WASTES BY REGULATION. The department shall, by regula-
26 tions adopted in accordance with the Administrative Procedure Act
27 (AS 44.62), classify substances as extremely hazardous wastes and
28 hazardous wastes.

29 Sec. 46.32.060. PENALTY. (a) A person who violates this chapter

1 or a regulation adopted under this chapter is guilty of a class A
2 misdemeanor.

3 (b) In addition to the penalty prescribed for a class A mis-
4 demeanor under AS 12.55.035(b)(3) and (c), a corporation which violates
5 this chapter or a regulation adopted under this chapter is subject to

6 (1) a penalty of \$50,000 for each offense; each day that the
7 violation continues constitutes a separate offense;

8 (2) the payment to the state of expenses incurred by the
9 state in removing, correcting, or abating the adverse effects of the
10 violation; and

11 (3) actual damages resulting from the violation.

12 Sec. 46.32.070. DEFINITIONS. In this chapter

13 (1) "department" means the Department of Environmental
14 Conservation;

15 (2) "extremely hazardous waste" means a hazardous waste or
16 combination of hazardous wastes which will likely cause the death of,
17 or result in disabling personal injury or serious illness to, a person
18 who has been exposed to it;

19 (3) "hazardous waste" means a waste, or combination of
20 wastes, which because of its quantity, concentration, or physical,
21 chemical or infectious characteristics may

22 (A) cause, or significantly contribute to, an increase
23 in mortality or an increase in serious irreversible, or incapaci-
24 tating reversible illness; or

25 (B) pose a substantial present or potential hazard to
26 human health, livestock, wildlife, property, or the environment
27 when improperly disposed of;

28 (4) "manifest" means a shipping or storage document contain-
29 ing a list of the contents, value, origin, carrier, and destination of

1 the extremely hazardous and hazardous wastes to be transported, required
2 to be carried by the person providing transportation of the wastes.

3 (5) "waste" means material for which no use or reuse is
4 intended and which is to be disposed of; the term does not include
5 nuclear waste subject to AS 18.45.

6 * Sec. 15. AS 18.45.010 - 18.45.080 are repealed.

7 * Sec. 16. Sections 1, 2, 6 - 11, and 15 of this Act take effect immedi-
8 ately in accordance with AS 01.10.070(c).

9 * Sec. 17. Sections 3 - 5 of this Act take effect on the date of a
10 final court order ruling AS 18.45.100 as enacted by sec. 1 of this Act
11 invalid or unconstitutional.

12 * Sec. 18. Sections 12 - 14 of this Act take effect July 1, 1981.
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