

Introduced: 2/13/84
Referred: Resources and
Finance

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1 IN THE SENATE

2 SENATE BILL NO. 486

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the storage and disposal of
7 hazardous wastes and toxic and hazardous substances."

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

9 * Section 1. AS 46.03.296 is amended to read:

10 Sec. 46.03.296. DISPOSAL OF HAZARDOUS WASTES AND TOXIC OR HAZ-
11 ARDOUS SUBSTANCES. (a) It is unlawful to dispose of hazardous wastes
12 or a toxic or hazardous substance in the state unless

13 (1) the waste or substance has been treated and disposed of
14 in a manner that uses the maximum degree of reduction of the harmful
15 qualities of the [A HAZARDOUS] waste or substance [WHICH IS SUBJECT TO
16 THIS CHAPTER] and that [WHICH] the department, on a case-by-case
17 basis, determines is achievable for the [HAZARDOUS] waste or substance
18 by application of production processes and available methods, systems
19 and techniques, taking into account energy, environmental, and eco-
20 nomic impacts and other costs; and

21 (2) the waste or substance is disposed of in a manner that
22 will ensure the protection of human health, livestock, wildlife,
23 property, and the environment.

24 (b) The department shall adopt regulations in accordance with
25 the Administrative Procedure Act (AS 44.62) for the treatment, stor-
26 age, and disposal of hazardous wastes and toxic or hazardous sub-
27 stances to ensure the protection of human health, livestock, wildlife,
28 property, and the environment.

29 * Sec. 2. AS 46.03.299 is repealed and reenacted to read:

1 Sec. 46.03.299. CONTROL OF HAZARDOUS WASTES AND TOXIC AND HAZ-
2 ARDOUS SUBSTANCES. (a) The department shall, by regulations adopted
3 under the Administrative Procedure Act (AS 44.62), establish a state
4 hazardous waste program that includes provisions for the storage and
5 disposal of toxic and hazardous substances.

6 (b) The state hazardous waste program shall, consistent with and
7 substantially equivalent to the Federal Resource Conservation and
8 Recovery Act of 1976 (P.L. 94-580, 42 U.S.C. 6901 - 6987),

9 (1) establish criteria to identify the characteristics of
10 hazardous wastes;

11 (2) enumerate specific hazardous wastes, within the meaning
12 given in AS 46.03.900, subject to the provisions of AS 46.03.302 and
13 46.03.305; however, the department may not list as hazardous a waste
14 that has not been listed as a hazardous waste by the United States
15 Environmental Protection Agency under 42 U.S.C. 6921, unless the
16 commissioner first determines that the waste is hazardous as defined
17 in this chapter;

18 (3) identify the sources of hazardous wastes enumerated
19 under (2) of this subsection;

20 (4) identify the sources of toxic or hazardous substances;

21 (5) qualify the department to receive authorization from
22 the administrator of the Environmental Protection Agency to administer
23 and enforce a hazardous waste program in accordance with the Federal
24 Resource Conservation and Recovery Act;

25 (6) determine the amount of a hazardous waste and of a
26 toxic or hazardous substance that is so small as to not present a
27 hazard to public health, livestock, fish, wildlife, and the environ-
28 ment of the state when disposed of;

29 (7) exempt a person who generates, treats, transports,

1 stores, or disposes of a hazardous waste from the provisions of this
2 chapter if the quantity of the hazardous waste is less than the amount
3 identified in (6) of this subsection; and

4 (8) exempt a person who stores or disposes of a toxic or
5 hazardous substance from the provisions of this chapter if the quan-
6 tity of the substance is less than the amount identified in (6) of
7 this subsection;

8 (9) establish

9 (A) criteria for identifying appropriate hazardous
10 waste and toxic or hazardous disposal site locations;

11 (B) procedures by which the public shall have oppor-
12 tunity to

13 (i) participate in hazardous waste and toxic or
14 hazardous substance disposal site locations; and

15 (ii) review and comment on issuance of hazardous
16 waste and toxic or hazardous disposal and storage permits by
17 the department.

18 * Sec. 3. AS 46.03.302(a) is amended to read:

19 (a) A person may not treat, transport, store, or dispose of a
20 hazardous waste as defined by the department by regulation, or store
21 or dispose of a toxic or hazardous substance, unless that person first
22 secures a permit from the department and submits to the department any
23 reports or manifests that the department may require for handling the
24 hazardous wastes or the toxic or hazardous substance.

25 * Sec. 4. AS 46.03 is amended by adding a new section to read:

26 Sec. 46.03.309. NOTICE TO LOCAL GOVERNMENTS AND COMMUNITIES.
27 The department shall notify the following persons or agencies in each
28 community in which a person intends to store or dispose of a toxic or
29 hazardous substance:

1 (1) a representative of the local elected governing body;
2 and

3 (2) the state and local public safety agencies with juris-
4 diction over the site at which the substance is to be stored or dis-
5 posed of.

6 * Sec. 5. AS 46.03 is amended by adding a new section to read:

7 Sec. 46.03.312. MUNICIPAL REGULATION. A home rule or general
8 law municipality may enact an ordinance consistent with the provisions
9 of AS 46.03.296 - 46.03.311 regulating the storage and disposal of
10 toxic or hazardous substances and hazardous wastes.

11 * Sec. 6. AS 46.03.900(34) is amended to read:

12 (34) "storage" means the containment of hazardous waste or a
13 toxic or hazardous substance, either on a temporary basis or for a
14 period of years, in a manner that does not constitute disposal of the
15 [HAZARDOUS] waste or substance;

16 * Sec. 7. AS 46.03.900 is amended by adding new paragraphs to read:

17 (36) "toxic or hazardous substance" includes

18 (A) a chemical listed in 29 CFR Part 1910, Subpart Z,
19 Toxic and Hazardous Substances, "General Industry Standards",
20 Occupational Safety and Health Administration;

21 (B) a chemical listed in "Threshold Limit Values for
22 Chemical Substances and Physical Agents in the Work Environment",
23 American Conference of Governmental Industrial Hygienists (latest
24 edition);

25 (C) a substance for which an OSHA form 20 or equiva-
26 lent information is required under OSHA regulations; and

27 (D) a substance determined by the department, in
28 accordance with the Administrative Procedure Act (AS 44.62), to
29 be a health hazard to an employee who is exposed to the

1 substance, including a carcinogen, reproductive toxin, irritant,
2 corrosive, sensitizer, hepatotoxin, nephrotoxin, neurotoxin,
3 agent that acts on the hematopoietic system, agent that damages
4 the lungs, a cutaneous hazard and an eye hazard;

5 (37) "toxic or hazardous substance" does not include

6 (A) substances that because of their physical state,
7 volume, or concentration do not pose a health hazard upon expo-
8 sure;

9 (B) substances that are goods, food, drugs, cosmetics,
10 or tobacco products intended for personal consumption; or

11 (C) substances in transit;

12 (D) hazardous wastes.

13 * Sec. 8. AS 29.48.035(a) is amended by adding a new paragraph to
14 read:

15 (21) storage and disposal of toxic or hazardous substances
16 and hazardous wastes as provided by AS 46.03.312.