

Introduced: 2/14/84  
Referred: Resources and  
Judiciary

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 498

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act changing the penalties for environmental  
7 pollution violations, including hazardous waste  
8 violations; and providing for an effective date."

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

10 \* Section 1. AS 11.41 is amended by adding a new section to article 2  
11 to read:

12 Sec. 11.41.260. RECKLESS ENDANGERMENT WITH HAZARDOUS WASTE. (a)  
13 A person commits the crime of reckless endangerment with hazardous  
14 waste if the person recklessly engages in conduct involving the stor-  
15 ing, transportation, or disposal of hazardous waste which creates a  
16 substantial risk of serious physical injury to another person.

17 (b) For purposes of this section, "hazardous waste" is defined  
18 as any substance subject to regulation as a hazardous waste under  
19 AS 46.03.250 -- 46.03.311.

20 (c) Reckless endangerment with hazardous waste is a class C  
21 felony.

22 \* Sec. 2. AS 46.03.760(a) is amended to read:

23 (a) A person who violates or causes or permits to be violated a  
24 provision of this chapter or AS 46.04, or a regulation, a lawful order  
25 of the department, or a permit, approval, or acceptance, or term or  
26 condition of a permit, approval, or acceptance issued under this  
27 chapter or AS 46.04 is liable, in a civil action, to the state for a  
28 sum to be assessed by the court of not less than \$500 nor more than  
29 \$100,000 for the initial violation, nor more than \$10,000 [\$5,000] for

1 each day after that [THEREAFTER] on which the violation continues, and  
2 which shall reflect, when applicable,

3 (1) reasonable compensation in the nature of liquidated  
4 damages for any adverse environmental effects caused by the violation,  
5 which shall be determined by the court according to the toxicity,  
6 degradability and dispersal characteristics of the substance dis-  
7 charged, the sensitivity of the receiving environment, and the degree  
8 to which the discharge degrades existing environmental quality;

9 (2) reasonable costs incurred by the state in detection,  
10 investigation, and attempted correction of the violation; [AND]

11 (3) the economic savings realized by the person in not  
12 complying with the requirement for which a violation is charged; and

13 (4) the need for an enhanced civil penalty to deter future  
14 noncompliance.

15 \* Sec. 3. AS 46.03.760(b) is amended to read:

16 (b) Except as determined by the court under (a)(4) of this  
17 section, actions [ACTIONS] under this section may not be used for  
18 punitive purposes, and sums assessed by the court must be compensatory  
19 and remedial in nature.

20 \* Sec. 4. AS 46.03.790 is amended to read:

21 Sec. 46.03.790. CRIMINAL PENALTIES. (a) Except as provided in  
22 (d) -- (f) of this section, a [A] person who negligently violates [OR  
23 CAUSES OR PERMITS A VIOLATION OF] a provision of this chapter or  
24 AS 46.04, or of a regulation, lawful order of the department, or  
25 permit, approval, or acceptance, or term or condition of a permit,  
26 approval, or acceptance issued under this chapter or AS 46.04 is  
27 guilty of a class B misdemeanor.

28 (b) Except as provided in (d) -- (f) of this section, a [A]  
29 person who knowingly [WILFULLY] violates a provision of this chapter

1 or AS 46.04, or of a regulation, lawful order of the department, or  
2 permit, approval, or acceptance, or term or condition of a permit,  
3 approval, or acceptance issued under this chapter or AS 46.04 is  
4 guilty of a class A misdemeanor.

5 (c) Each day on which a violation described in [(a) OR (b) OF]  
6 this section occurs is considered a separate violation.

7 (d) Notwithstanding (a) and (b) of this section, a [A] person  
8 who fails to provide or falsely states information required under  
9 AS 46.03.755 or AS 46.04 is guilty of a misdemeanor and, upon convic-  
10 tion, is punishable by a fine of not more than \$25,000, or by impri-  
11 sonment for not more than one year, or by both. Each unlawful act  
12 constitutes a separate offense.

13 (e) Notwithstanding (a) and (b) of this section, a person who  
14 knowingly (1) transports any hazardous waste to a facility without a  
15 permit required under AS 46.03.250 -- 46.03.311; (2) treats, stores,  
16 or disposes of hazardous waste without a permit required under AS 46.-  
17 03.250 -- 46.03.311; or (3) makes a false statement or representation  
18 in an application, label, manifest, record, report, permit, or other  
19 document filed, maintained, or used for purposes of compliance with  
20 the hazardous waste provisions of AS 46.03.250 -- 46.03.311 or regu-  
21 lations adopted under those provisions, is punishable by a fine of not  
22 more than \$10,000 per day or by imprisonment for not more than one  
23 year, or both.

24 (f) Notwithstanding the penalty provisions of (a) -- (e) of this  
25 section, a defendant that is an organization is, upon conviction of a  
26 violation of any of the provisions listed in this section, subject to  
27 the penalties set out in AS 12.55.035(c).

28 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
29 10.070(c).