

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

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 SENATE BILL NO. 503

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 hazardous wastes."

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

8 * Section 1. AS 46.03.100(c) is amended to read:

9 (c) A permit for disposal of a hazardous waste may not be issued
10 under this section unless the applicant for the permit satisfies those
11 department regulations that are consistent with and equivalent to
12 regulations of the Environmental Protection Agency adopted under
13 42 U.S.C. 6924 - 6925 and has furnished proof to the commissioner of
14 financial ability to control the hazardous waste. [PROOF OF FINANCIAL
15 RESPONSIBILITY MAY BE DEMONSTRATED BY SELF-INSURANCE, INSURANCE,
16 SURETY, OR GUARANTEE, UNDER REGULATIONS ISSUED BY THE DEPARTMENT.
17 ACCEPTANCE OF PROOF OF FINANCIAL RESPONSIBILITY UNDER THIS SUBSECTION
18 EXPIRES

19 (1) ONE YEAR FROM ITS ISSUANCE FOR SELF-INSURANCE;
20 (2) ON THE EFFECTIVE DATE OF A CHANGE IN THE SURETY BOND,
21 GUARANTEE, OR INSURANCE AGREEMENT: OR
22 (3) ON THE EXPIRATION OR CANCELLATION OF THE SURETY BOND,
23 GUARANTEE, OR INSURANCE AGREEMENT.]

24 * Sec. 2. AS 46.03.250 is amended to read:

25 Sec. 46.03.250. AUTHORITY. (a) The department shall adopt
26 regulations

27 (1) establishing standards governing the discharge of low
28 level radioactive materials to the air, water, land, and subsurface
29 land of the state;

1 (2) establishing safeguards for radioactive waste materials
2 that do not constitute a threat to public health or safety and that
3 may be stored or disposed of in the state; and

4 (3) establishing procedures for the storage and disposal of
5 radioactive materials used in medicine, education, instruments, indus-
6 trial testing, or scientific research; and

7 (4) required by regulations adopted by the Environmental
8 Protection Agency under 42 U.S.C. 6926 for approval of a state
9 hazardous waste management program.

10 (b) The department has exclusive jurisdiction to adopt and
11 enforce regulations for the control of hazardous wastes in the state.

12 * Sec. 3. AS 46.03.296(b) is amended to read:

13 (b) The department shall adopt regulations in accordance with
14 the Administrative Procedure Act (AS 44.62) for the treatment, stor-
15 age, transportation, and disposal of hazardous wastes to ensure the
16 protection of human health, livestock, wildlife, property, and the
17 environment.

18 * Sec. 4. AS 46.03.299 is repealed and reenacted to read:

19 Sec. 46.03.299. CONTROL OF HAZARDOUS WASTES. (a) The depart-
20 ment shall facilitate coordination with federal, state, and local
21 agencies in adopting regulations under the Administrative Procedure
22 Act (AS 44.62) for a comprehensive state hazardous waste program
23 consistent with 42 U.S.C. 6901 - 6987 and regulations adopted under
24 those sections by the Environmental Protection Agency.

25 (b) The department shall

26 (1) identify the characteristics of hazardous wastes, as
27 identified in regulations of the Environmental Protection Agency
28 adopted under 42 U.S.C. 6921(b);

29 (2) establish

- 1 (A) criteria for listing hazardous wastes;
- 2 (B) requirements for hazardous waste that is used,
3 re-used, recycled, or reclaimed; and
- 4 (C) exclusions;
- 5 (3) adopt as a preliminary list the lists of hazardous
6 wastes identified by the Environmental Protection Agency in regulations
7 adopted under 42 U.S.C. 6921(b);
- 8 (4) identify the sources of hazardous wastes listed under
9 (3) of this subsection or enumerated under (c) of this section;
- 10 (5) qualify the department to receive authorization from
11 the administrator of the Environmental Protection Agency to administer
12 and enforce a hazardous waste program in accordance with 42 U.S.C.
13 6901 - 6987;
- 14 (6) determine the amount of a hazardous waste that is so
15 small as to not present a hazard to public health, livestock, fish,
16 wildlife, and the environment of the state when disposed of;
- 17 (7) adopt preliminary requirements for hazardous waste
18 produced by small quantity generators as specified under 42 U.S.C.
19 6921 - 6922;
- 20 (8) adopt, in accordance with 42 U.S.C. 6924,
- 21 (A) criteria for identifying appropriate hazardous
22 waste disposal site locations;
- 23 (B) procedures by which the public shall have oppor-
24 tunity to
- 25 (i) participate in hazardous waste disposal site
26 locations; and
- 27 (ii) review and comment on issuance of hazardous
28 waste disposal permits by the department.
- 29 (c) Two years after the date on which the Environmental

1 Protection Agency approves the state hazardous waste program, the
2 department may

3 (1) develop new regulations for small quantity generators
4 if the Environmental Protection Agency fails to revise 40 C.F.R.
5 261.5, dated April 1, 1983; and

6 (2) enumerate specific hazardous wastes, within the meaning
7 of AS 46.03.900(32), subject to the provisions of AS 46.03.302 and
8 46.03.305; however, the department may not list as hazardous a waste
9 that has not been listed as a hazardous waste by the United States
10 Environmental Protection Agency under 42 U.S.C. 6921, unless the
11 commissioner first determines that the waste is hazardous as defined
12 in this chapter.

13 * Sec. 5. AS 46.03.311(b) is amended to read:

14 (b) Information that is confidential may be transmitted under a
15 continuing restriction of confidentiality to other officers, employ-
16 ees, or authorized representatives of the state or of the United
17 States if

18 (1) the person responsible for furnishing the record,
19 report, permit, application, or information to which such information
20 pertains is informed at least two weeks before the transmittal, except
21 that information obtained under AS 46.03.296 - 46.03.311 shall be made
22 available under a claim of confidentiality to the Environmental Pro-
23 tection Agency upon request of the agency; and

24 (2) the information has been acquired by the department
25 under the provisions of AS 46.03.296 - 46.03.311.

26 * Sec. 6. AS 46.03 is amended by adding new sections to read:

27 Sec. 46.03.312. CIVIL REMEDIES AND PENALTIES. (a) In the
28 enforcement of AS 46.03.296 - 46.03.311 the department may

29 (1) petition the superior court for injunctive relief to

1 restrain a person from engaging in an unauthorized activity that is
2 endangering or damaging the public health or the environment;

3 (2) assess a civil fine under (b) of this section; or

4 (3) bring an action in the superior court seeking civil
5 penalties under (b) of this section.

6 (b) A violation of a provision of AS 46.03.296 - 46.03.311 is
7 punishable by a civil fine of not less than \$10,000 and not more than
8 \$100,000 for the first day of the offense, and a civil fine of not
9 more than \$10,000 per day for each day the offense continues.

10 Sec. 46.03.313. CRIMINAL PENALTIES. A person who knowingly
11 transports a hazardous waste to an unpermitted facility, or who know-
12 ingly treats, stores, or disposes of a hazardous waste without a
13 permit, or who knowingly makes a false statement or a misrepresenta-
14 tion in an application, label, manifest, record, report, permit, or
15 other document filed, maintained, or used for the purposes of AS 46.-
16 03.296 - 46.03.311, is guilty of a class B misdemeanor and shall be
17 sentenced to a fine of not less than \$10,000 per day and not more than
18 \$50,000 per day for each day during which the offense continued and to
19 a term of imprisonment of not less than 180 days.

20 Sec. 46.03.314. DUTIES OF THE DEPARTMENT. The department shall

21 (1) investigate and respond in writing to a complaint filed
22 by a citizen in accordance with the provisions of 42 U.S.C. 6901 -
23 6987; and

24 (2) provide public notice and a public comment period of
25 not less than 30 days for a proposed settlement of a department en-
26 forcement action.

27 * Sec. 7. AS 46.03.760(a) is amended to read:

28 (a) A person who violates or causes or permits to be violated a
29 provision of this chapter, other than AS 46.03.296 - 46.03.311, or

1 AS 46.04, or a regulation, a lawful order of the department, or a
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 liable, in a civil action, to the state for a sum to be assessed by
5 the court of not less than \$500 nor more than \$100,000 for the initial
6 violation, nor more than \$5,000 for each day thereafter on which the
7 violation continues, and which shall reflect, when applicable,

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

14 (2) reasonable costs incurred by the state in detection,
15 investigation, and attempted correction of the violation; and

16 (3) the economic savings realized by the person in not
17 complying with the requirement for which a violation is charged.

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

19 (a) A person who violates or who causes or permits a violation
20 of a provision of this chapter other than AS 46.03.296 - 46.03.311 or
21 AS 46.04, or of a regulation, lawful order of the department, or
22 permit, approval, or acceptance, or term or condition of a permit,
23 approval, or acceptance issued under a provision of this chapter other
24 than AS 46.03.296 - 46.03.311 or under AS 46.04 is guilty of a class B
25 misdemeanor.

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

27 (b) A person who wilfully violates a provision of this chapter
28 other than AS 46.03.296 - 46.03.311, or of a regulation, lawful order
29 of the department, or permit, approval, or acceptance, or term or

1 condition of a permit, approval, or acceptance issued under a provi-
2 sion of this chapter other than AS 46.03.296 - 46.03.311 or under
3 AS 46.04 is guilty of a class A misdemeanor.