

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

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CS FOR HOUSE BILL NO. 315 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

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A BILL

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For an Act entitled: "An Act relating to criminal liability of an individual for the conduct of an organization and to criminal penalties for negligent operation of a tank vessel, for negligent oil discharge, for failure to comply with an oil discharge contingency plan, for negligent performance or failure to perform a required act relating to the handling of a hazardous waste, and for failure to provide information or providing false information about oil or a hazardous substance when required by law."

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

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* Section 1. AS 11.16 is amended by adding a new section to read:

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Sec. 11.16.140. CRIMINAL LIABILITY OF AN INDIVIDUAL FOR ORGANIZATION CONDUCT. (a) A person is criminally liable for conduct that the person performs or causes to be performed in the name of, or in behalf of, an organization to the same extent as if that conduct were performed in the person's own name or behalf.

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(b) Whenever a duty to act is imposed by law upon an organization, any agent of the organization who has primary responsibility for the discharge of the duty is legally accountable for an omission to perform the required act to the same extent as if the duty were imposed by law directly upon the agent.

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(c) When a person is liable for an offense under this section, the person is subject to any sentence authorized by law, including

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1 imprisonment.

2 * Sec. 2. AS 46.03 is amended by adding a new section to read:

3 Sec. 46.03.742. NEGLIGENT OPERATION OF TANK VESSEL. (a) A
4 person commits the crime of negligent operation of a tank vessel when,
5 by operating, navigating, or piloting a tank vessel with criminal
6 negligence, the person creates a risk of a release of a hazardous
7 substance and the release could cause serious physical injury to
8 another person or damage to the property of another.

9 (b) Negligent operation of a tank vessel is a class C felony.

10 (c) In this section,

11 (1) "criminal negligence" has the meaning given in AS 11.-
12 81.900;

13 (2) "hazardous substance" has the meaning given in AS 46.-
14 03.826;

15 (3) "tank vessel" means

16 (A) a vessel that is constructed or adapted to
17 carry, or that carries, as a means of transportation by water, a
18 hazardous substance in bulk as cargo or cargo residue;

19 (B) the vessel that propels the tank vessel if the
20 tank vessel is a barge or other vessel that is not self-propel-
21 led.

22 * Sec. 3. AS 46.03.790(a) is amended to read:

23 (a) Except as provided in (d) [(d) - (f)] of this section, a
24 person is guilty of a class A misdemeanor if the person with criminal
25 negligence

26 (1) [WHO NEGLIGENTLY] violates a provision of this chapter,
27 AS 46.04, or AS 46.09, [OR OF] a regulation or [, LAWFUL] order of the
28 department, or a permit, approval, or acceptance, or a term or condi-
29 tion of a permit, approval, or acceptance issued under this chapter,

1 AS 46.04, or AS 46.09;

2 (2) fails to provide information or provides false informa-
3 tion required by AS 46.03.755, AS 46.04, or AS 46.09, or by a regula-
4 tion adopted by the department under AS 46.03.755, AS 46.04, or
5 AS 46.09; or

6 (3) makes a false statement or representation in an appli-
7 cation, label, manifest, record, report, permit, or other document
8 filed, maintained, or used for purposes of compliance with AS 46.03.-
9 250 - 46.03.314 applicable to hazardous wastes or a regulation adopted
10 by the department under AS 46.03.250 - 46.03.314 [IS GUILTY OF A CLASS
11 B MISDEMEANOR].

12 * Sec. 4. AS 46.03.790(b) is amended to read:

13 (b) A [EXCEPT AS PROVIDED IN (d) - (f) OF THIS SECTION, A]
14 person is guilty of a class C felony if the person [WHO] knowingly

15 (1) violates a provision of this chapter, AS 46.04, or
16 AS 46.09, [OR OF] a regulation or [, LAWFUL] order of the department,
17 or a permit, approval, or acceptance, or a term or condition of a
18 permit, approval, or acceptance issued under this chapter, AS 46.04,
19 or AS 46.09;

20 (2) transports hazardous waste to a facility without a
21 permit required by AS 46.03.250 - 46.03.314; or

22 (3) treats, stores, or disposes of hazardous waste without
23 a permit required by AS 46.03.250 - 46.03.314 [IS GUILTY OF A CLASS A
24 MISDEMEANOR].

25 * Sec. 5. AS 46.03.790(d) is amended to read:

26 (d) Notwithstanding (a) [AND (b)] of this section, a person who
27 with criminal negligence discharges oil in violation of AS 46.03.740
28 or who, when required by an oil discharge to comply with the pro-
29 visions of an oil discharge contingency plan approved under

1 AS 46.04.030, with criminal negligence fails to comply with the plan
2 is guilty of

3 (1) a class C felony if the oil discharge is 10,000 barrels
4 or more;

5 (2) a class A misdemeanor if the oil discharge is less than
6 10,000 barrels [FAILS TO PROVIDE OR FALSELY STATES INFORMATION RE-
7 QUIRED UNDER AS 46.03.755, AS 46.04, OR AS 46.09 IS GUILTY OF A MISDE-
8 MEANOR AND, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT MORE THAN
9 \$25,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH.
10 EACH UNLAWFUL ACT CONSTITUTES A SEPARATE OFFENSE].

11 * Sec. 6. AS 46.03.790 is amended by adding a new subsection to read:

12 (g) In this section,

13 (1) "barrel" has the meaning given in AS 46.04.900;

14 (2) "criminal negligence" has the meaning given in AS 11.-
15 81.900;

16 (3) "knowingly" has the meaning given in AS 11.81.900.

17 * Sec. 7. AS 46.03.790(e) and 46.03.790(f) are repealed.

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