

BY REP. LEMAN

1 IN THE HOUSE

2

HOUSE BILL NO. 547

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act limiting municipal liability related to  
7 releases or threatened releases of oil."

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

9 \* Section 1. AS 46.03.822(a) is amended to read:

10 (a) Notwithstanding any other provision or rule of law and  
11 subject only to the defenses set out in (b) of this section and the  
12 exceptions [EXCEPTION] set out in (i) and (k) of this section, the  
13 following persons are strictly liable, jointly and severally, for  
14 damages to persons or property, whether public or private, including  
15 damage to the natural resources of the state or a municipality, and  
16 for the costs of response, containment, removal, or remedial action  
17 incurred by the state or a municipality, resulting from an unpermitted  
18 release of a hazardous substance or, with respect to response costs,  
19 the substantial threat of an unpermitted release of a hazardous su-  
20 stance:

21 (1) the owner of, and the person having control over, the  
22 hazardous substance at the time of the release or threatened release;  
23 this paragraph does not apply to a consumer product in consumer use;

24 (2) the owner and the operator of a vessel or facility,  
25 from which there is a release, or a threatened release that causes the  
26 incurrence of response costs, of a hazardous substance;

27 (3) any person who at the time of disposal of any hazardous  
28 substance owned or operated any facility or vessel at which the  
29 hazardous substances were disposed of, from which there is a release,

1 or a threatened release that causes the incurrence of response costs,  
2 of a hazardous substance;

3 (4) any person who by contract, agreement, or otherwise  
4 arranged for disposal or treatment, or arranged with a transporter for  
5 transport for disposal or treatment, of hazardous substances owned or  
6 possessed by the person, other than domestic sewage, or by any other  
7 party or entity, at any facility or vessel owned or operated by  
8 another party or entity and containing hazardous substances, from  
9 which there is a release, or a threatened release that causes the  
10 incurrence of response costs, of a hazardous substance;

11 (5) any person who accepts or accepted any hazardous sub-  
12 stances, other than refined oil, for transport to disposal or treat-  
13 ment facilities, vessels or sites selected by the person, from which  
14 there is a release, or a threatened release that causes the incurrence  
15 of response costs, of a hazardous substance.

16 \* Sec. 2. AS 46.03.822 is amended by adding a new subsection to read:

17 (k) A municipality is not liable under this section for costs or  
18 damages as a result of a release or threatened release of oil in a  
19 municipal right-of-way unless the release or threatened release was  
20 caused by actions or omissions of the municipality that constitute  
21 negligence, recklessness, or intentional misconduct. In this sub-  
22 section, "municipal right-of-way" means a right-of-way related to a  
23 highway, road, trail, bridge, tunnel, road drainage structure, under-  
24 ground utility, or other road-related or utility-related structure  
25 owned or controlled by a municipality.