

BY REP. KOPONEN, Ulmer

1 IN THE HOUSE

2 HOUSE BILL NO. 558

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing suits to enforce environmental  
7 laws; and having the effect of amending Rules 24 and  
8 82 of the Alaska Rules of Civil Procedure."

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

10 \* Section 1. AS 46.03.870 is amended by adding new subsections to read:

11 (d) Except as provided in (e) of this section, a person may file  
12 a civil action against a person, including the state or an agency of  
13 the state, that is alleged to be in violation of a law, regulation,  
14 permit, plan, or order established under this chapter, AS 46.04, or  
15 AS 46.09. The court may assess civil penalties under AS 46.03.760,  
16 issue injunctions under AS 46.03.765, and order other relief.

17 (e) A person may not file a civil action under (d) of this  
18 section

19 (1) until 60 days after the plaintiff has given notice of  
20 the violation to the commissioner and to the person alleged to have  
21 violated a law, regulation, permit, plan, or order; or

22 (2) if the commissioner has commenced and is diligently  
23 prosecuting a civil action or administrative proceeding to require  
24 compliance with the law, regulation, permit, plan, or order.

25 (f) The commissioner may intervene in a civil action under (d)  
26 of this section as a matter of right. A person unable to file a civil  
27 action under (e) of this section may intervene as a matter of right in  
28 a civil action or administrative proceeding brought under (e)(2) of  
29 this section.

1           (g) In the issuance of an order under this section, the court  
2 may award the costs of litigation, including reasonable attorney and  
3 expert witness fees, to a substantially prevailing plaintiff or a  
4 defendant if the court finds that the plaintiff's action was wholly  
5 frivolous.

6 \* Sec. 2. AS 46.03.870(a) is repealed.

7 \* Sec. 3. The provisions of AS 46.03.870(f), enacted by sec. 1 of this  
8 Act, have the effect of changing Alaska Rule of Civil Procedure 24 by  
9 limiting the court's control over intervention of parties.

10 \* Sec. 4. AS 46.03.870(f), enacted by sec. 1 of this Act, takes effect  
11 only if sec. 3 of this Act receives a two-thirds majority vote of each  
12 house as required by art. IV, sec. 15, Constitution of the State of Alaska.

13 \* Sec. 5. The provisions of AS 46.03.870(g), enacted in sec. 1 of this  
14 Act, have the effect of changing Alaska Rule of Civil Procedure 82 by  
15 revising the standards for the award of attorney fees and costs.

16 \* Sec. 6. AS 46.03.870(g), enacted in sec. 1 of this Act, takes effect  
17 only if sec. 5 of this Act receives a two-thirds majority vote of each  
18 house as required by art. IV, sec. 15, Constitution of the State of Alaska.