

Original sponsor(s): REP. KOPONEN, Ulmer

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 558 (Judiciary)

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."

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

9 * Section 1. AS 46.03.870(b) is amended to read:

10 (b) Except as provided [SPECIFIED] in AS 46.03.822 - 46.03.828
11 and except in an action under (d) of this section, a determination or
12 order of the department does not create a presumption of law or find-
13 ing of fact inuring to or for the benefit of persons other than the
14 state.

15 * Sec. 2. AS 46.03.870 is amended by adding new subsections to read:

16 (d) Except as provided in (e) of this section, a person may file
17 a civil action against a person who is alleged to be in violation of a
18 law, regulation, permit, plan, or order established under this chap-
19 ter, AS 46.04, or AS 46.09. A person may not file a civil action
20 under this subsection against the state, an agency of the state, a
21 public corporation of the state, or the University of Alaska.

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

24 (1) until 60 days after the plaintiff has given notice of
25 the violation to the commissioner and to the person alleged to be in
26 violation of a law, regulation, permit, plan, or order; or

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

1 (f) Notwithstanding (e)(1) of this section, a person may file a
2 civil action under (d) of this section immediately after giving notice
3 under (e)(1) of this section, in an action involving

4 (1) a hazardous waste as defined under AS 46.03.900;

5 (2) a hazardous substance as defined under AS 46.03.826 or
6 AS 46.09.900; or

7 (3) a hazardous air pollutant as defined under 42 U.S.C.
8 7412.

9 * Sec. 3. AS 46.03.890 is repealed and reenacted to read:

10 Sec. 46.03.890. ENFORCEMENT AUTHORITY. A police officer of the
11 state and a state employee authorized by the commissioner are author-
12 ized to enforce this chapter. This section does not limit the right
13 of a person under AS 46.03.870(d) - (f).

14 * Sec. 4. AS 46.03.870(a) is repealed.