

Offered: 5/6/89  
Referred: Rules

6-11821

Original sponsors: Kelly, Sturgulewski,  
Eliason, et al.

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 264 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an oil and hazardous substance  
7 response office, corps, and depots; authorizing use  
8 of money in the oil and hazardous substance release  
9 response fund for certain related expenses; and  
10 providing for an effective date."

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

12 \* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that the  
13 March 24, 1989, oil spill disaster in Prince William Sound demonstrates a  
14 need for the state to have an independent spill containment and clean-up  
15 capability in the event of future discharges of oil or a hazardous sub-  
16 stance.

17 (b) It is the purpose of this Act to provide assurance to the people  
18 of the state that their health, safety, and well-being will be protected  
19 from the adverse consequences of oil and hazardous substance releases of a  
20 magnitude that presents a grave and substantial threat to the economy and  
21 the environment of the state.

22 \* Sec. 2. AS 46.08.040 is amended to read:

23 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use  
24 money from the fund to

25 (1) contain, clean up, and take other necessary action,  
26 such as monitoring, assessing, investigating, and evaluating the  
27 release or threatened release of oil or a hazardous substance that  
28 poses an imminent and substantial threat to the public health or  
29 welfare, or to the environment;

1           (2) pay all costs incurred to establish and maintain the  
2 oil and hazardous substance response office and for the expenses of  
3 the oil and hazardous substance response corps and the oil and hazard-  
4 ous substance response depots established by that office;

5           (3) provide matching funds for participation in federal oil  
6 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-  
7 hensive Environmental Response, Compensation, and Liability Act of  
8 1980); and

9           (4) [(3)] recover the cost to the state or to a municipal-  
10 ity of a containment and cleanup resulting from the release or the  
11 threatened release of oil or a hazardous substance.

12 \* Sec. 3. AS 46.08 is amended by adding new sections to read:

13           ARTICLE 2. OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE.

14           Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the  
15 department the oil and hazardous substance response office. The  
16 office shall include a director and employees who are specially  
17 trained in programs and technologies related to the containment and  
18 cleanup of releases or threatened releases of oil and hazardous sub-  
19 stances.

20           Sec. 46.08.110. RESPONSE CORPS. (a) The office shall establish  
21 an oil and hazardous substance response corps.

22           (b) The corps consists of volunteers who register with the  
23 office and agree to be trained by the office in techniques for con-  
24 tainment and cleanup and to be available on short notice to assist the  
25 office in containment and cleanup.

26           (c) Members of the corps are entitled to per diem and expenses  
27 as determined by the commissioner for training and for days spent in  
28 service to the state in containment and cleanup actions.

29           Sec. 46.08.120. RESPONSE DEPOTS. The office shall maintain

1 emergency response depots in areas of the state determined by the  
2 director to be potential sites of releases or threatened releases of  
3 oil or hazardous substances. The depots shall be equipped and staffed  
4 in a manner that ensures prompt response when containment and cleanup  
5 actions are necessary.

6 Sec. 46.08.130. DUTIES OF THE OFFICE. (a) The office shall be  
7 prepared to respond promptly to a discharge of oil or a hazardous  
8 substance.

9 (b) The office may respond under (a) of this section to an oil  
10 or hazardous substance discharge only if:

11 (1) the oil discharge is a catastrophic oil discharge that  
12 constitutes an emergency under AS 46.04.080(a);

13 (2) the discharge of oil or a hazardous substance is de-  
14 clared to be an emergency under AS 46.03.865;

15 (3) the governor declares the discharge an emergency under  
16 AS 26.23;

17 (4) the commissioner reasonably believes that there has  
18 been a discharge of oil or a hazardous substance, or that there is a  
19 potential discharge of oil or a hazardous substance, and the discharge  
20 may qualify under (1) - (3) of this subsection; or

21 (5) the commissioner reasonably believes that the discharge  
22 or potential discharge poses an imminent and substantial threat to  
23 public health or welfare or to the environment.

24 Sec. 46.08.140. EMERGENCY POWERS. (a) When the office has  
25 reasonable grounds to believe that a release of oil or a hazardous  
26 substance has occurred or is threatened to occur which, in the judg-  
27 ment of its director, presents an imminent or present danger to the  
28 health or welfare of the people of the state or would result in or is  
29 likely to result in irreversible or irreparable damage to the natural

1 resources or environment, and it appears to be prejudicial to the  
2 interest of the people of the state to delay action until an oppor-  
3 tunity for a hearing can be provided, state employees or members of  
4 the corps may, with permission of the director and without prior  
5 hearing, enter private property for the purpose of containment or  
6 cleanup.

7 (b) The property owner affected by a response action taken under  
8 (a) of this section has the right to be heard as soon as practicable  
9 and to present proof to the office that the containment or cleanup  
10 action is unnecessary or that it is not necessary to enter the per-  
11 son's property for the containment or cleanup action.

12 Sec. 46.08.150. CONTRACTS. The office may enter into agreements  
13 with agencies of the state and federal government, political subdivi-  
14 sions, the University of Alaska, or private entities to

15 (1) establish and maintain regional oil and hazardous  
16 substances depots and to acquire the supplies and equipment necessary  
17 for response readiness;

18 (2) train members of response corps; and

19 (3) conduct research into oil and hazardous substances  
20 spill technology.

21 Sec. 46.08.160. LIMITATION OF LIABILITY. The state, an employee  
22 of the state, and a member of the corps are not liable for costs or  
23 damages as a result of actions taken under AS 46.08.100 - 46.08.190 in  
24 response to a release or threatened release unless the actions taken  
25 by the state, the employee, or the member of the corps constitute  
26 gross negligence or intentional misconduct.

27 Sec. 46.08.190. DEFINITIONS. In AS 46.08.100 - 46.08.190

28 (1) "corps" means the oil and hazardous substance response  
29 corps;

1           (2) "depots" means the oil and hazardous substance supply  
2           and equipment storage depots;

3           (3) "office" means the oil and hazardous substance response  
4           office.

5       \* Sec. 4. APPLICABILITY OF ACT. (a) This Act does not relieve a  
6       person responsible for an oil terminal facility, offshore exploration or  
7       production facility, or a vessel that transports crude oil, or a person who  
8       has control of a hazardous substance from the responsibility for containing  
9       and cleaning up a discharge of oil or the hazardous substance as required  
10      by law.

11       (b) This Act does not add to or detract from the authority under law  
12      of a municipality to impose taxes on oil and gas property or other proper-  
13      ties for the purpose of establishing or maintaining services and facilities  
14      to minimize the risk of or respond to a release of oil or a hazardous  
15      substance.

16      \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).