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1 IN THE SENATE

2

SENATE BILL NO. 468

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to duties of the Department of  
7 Military and Veterans' Affairs and the Department of  
8 Environmental Conservation in relation to oil, haz-  
9 ardous substances, and radioactive material."

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

11 \* Section 1. AS 26.23.040 is amended by adding a new subsection to  
12 read:

13 (f) The Alaska division of emergency services shall establish  
14 the oil and hazardous substance response office, prepare statewide and  
15 regional oil and hazardous substance discharge and prevention contin-  
16 gency plans, and perform related duties under AS 46.04.200 - 46.04.210  
17 and AS 46.08.100 - 46.08.190.

18 \* Sec. 2. AS 46.03.865(a) is amended to read:

19 (a) When the department finds that an actual or imminent dis-  
20 charge of oil, a hazardous substance, or low level radioactive mate-  
21 rials to the air, water, land, or subsurface land of the state poses  
22 an immediate threat to the public health or welfare [,] or the envi-  
23 ronment of the state, it may issue an order declaring an emergency.  
24 If the department issues an order declaring an emergency under this  
25 subsection, the division of emergency services, Department of Military  
26 and Veterans' Affairs, shall, under the authority of AS 26.23 and  
27 AS 46.08.100 - 46.08.190, direct [AND DIRECTING A PERSON OR] persons  
28 to take action the division [DEPARTMENT] believes necessary to meet  
29 the emergency, and protect the public health, welfare, or environment.

1 \* Sec. 3. AS 46.03.865(c) is amended to read:

2 (c) During a period of emergency declared under (a) of this  
3 section, each state agency, including [, WHEN APPROPRIATE,] the divi-  
4 sion of emergency services, Department of Military and Veterans'  
5 Affairs, under the authority conferred by AS 26.23 and AS 46.08.100 -  
6 46.08.190 [26.20], shall take whatever action the division [DEPART-  
7 MENT] finds necessary to meet the emergency [,] and to protect the  
8 public health, welfare, or environment.

9 \* Sec. 4. AS 46.04.080(a) is amended to read:

10 (a) The actual or imminent occurrence of a catastrophic oil  
11 discharge constitutes a disaster emergency under AS 26.23. The [HOW-  
12 EVER, THE] department shall augment and support [PERFORM THE DUTIES  
13 OF] the Alaska division of emergency services in the performance of  
14 the division's duties under AS 26.23.040 and AS 46.08.100 - 46.08.190  
15 as they apply to catastrophic oil discharges. The department shall  
16 consult and coordinate its duties under this section with the Alaska  
17 division of emergency services.

18 \* Sec. 5. AS 46.04.200 is amended to read:

19 Sec. 46.04.200. STATE MASTER PLAN. (a) The division of emer-  
20 gency services, Department of Military and Veterans' Affairs, [DEPART-  
21 MENT] shall prepare and annually review and revise a statewide master  
22 oil and hazardous substance discharge and prevention contingency plan.

23 (b) The state master plan prepared under this section must

24 (1) take into consideration the elements of an oil dis-  
25 charge contingency plan approved or submitted for approval under  
26 AS 46.04.030;

27 (2) clarify and specify the respective responsibilities of  
28 each of the following in the assessment, containment, and cleanup of a  
29 catastrophic oil discharge or of a significant discharge of a

1 hazardous substance into the environment of the state:

2 (A) agencies of the state;

3 (B) municipalities of the state;

4 (C) appropriate federal agencies;

5 (D) operators of facilities;

6 (E) private parties whose land and other property may  
7 be affected by the oil or hazardous substance discharge; and

8 (F) other parties identified by the division [COMMIS-  
9 SIONER] as having an interest in or the resources to assist in  
10 the containment and cleanup of an oil or hazardous substance  
11 discharge;

12 (3) specify the respective responsibilities of parties  
13 identified in (2) of this subsection in an emergency response; and

14 (4) identify actions necessary to reduce the likelihood of  
15 catastrophic oil discharges and significant discharges of hazardous  
16 substances.

17 (c) In preparing and annually reviewing the state master plan,  
18 the division [COMMISSIONER] shall

19 (1) consult with municipal and community officials, and  
20 with representatives of affected regional organizations;

21 (2) submit the draft plan to the public for review and  
22 comment;

23 (3) submit to the legislature for review, not later than  
24 the 10th day following the convening of each regular session, the plan  
25 and any annual revision of the plan; and

26 (4) require or schedule unannounced oil spill drills to  
27 test the sufficiency of an oil discharge contingency plan approved  
28 under AS 46.04.030 or of the cleanup plans of a party identified under  
29 (b)(2) of this section.

1 \* Sec. 6. AS 46.04.210(a) is amended to read:

2 (a) For any region of the state, the boundaries of which are  
3 determined by the division of emergency services, Department of Mili-  
4 tary and Veterans' Affairs, [COMMISSIONER] by regulation, in which the  
5 Department of Environmental Conservation [DEPARTMENT] is required to  
6 review and approve an oil discharge contingency plan submitted by a  
7 person under AS 46.04.030, the division [DEPARTMENT] shall prepare and  
8 annually review and revise a regional master oil and hazardous sub-  
9 stance discharge and prevention contingency plan.

10 \* Sec. 7. AS 46.08.040 is amended by adding a new subsection to read:

11 (b) The commissioner shall, on request of the commissioner of  
12 military and veterans' affairs, use money from the fund to pay costs  
13 incurred by the division of emergency services, Department of Military  
14 and Veterans' Affairs, to

15 (1) establish and maintain the oil and hazardous substance  
16 response office and for the expenses of the oil and hazardous sub-  
17 stance response corps and the oil and hazardous substance response  
18 depots established by that office;

19 (2) prepare, review, and revise the state's master oil and  
20 hazardous substance discharge and prevention contingency plan required  
21 by AS 46.04.200 and a regional master oil and hazardous substance  
22 discharge and prevention contingency plan required by AS 46.04.210;  
23 and

24 (3) contain, clean up, and take other necessary action to  
25 address a release or threatened release of oil or a hazardous sub-  
26 stance that is within the jurisdiction of the division of emergency  
27 services under AS 26.23 or AS 46.08.100 - 46.08.190.

28 \* Sec. 8. AS 46.08.100 is amended to read:

29 Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the

1 division of emergency services, Department of Military and Veterans'  
2 Affairs, [DEPARTMENT] the oil and hazardous substance response office.  
3 The office shall include a director and employees who are specially  
4 trained in programs and technologies related to the containment and  
5 cleanup of releases or threatened releases of oil and hazardous sub-  
6 stances.

7 \* Sec. 9. AS 46.08.110(c) is amended to read:

8 (c) Members of the corps are entitled to per diem and expenses  
9 as determined by the division [COMMISSIONER] for training and for days  
10 spent in service to the state in containment and cleanup actions.

11 \* Sec. 10. AS 46.08.130(b) is amended to read:

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

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

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

18 (3) the governor declares the discharge an emergency under  
19 AS 26.23;

20 (4) the division director [COMMISSIONER] reasonably be-  
21 lieves that there has been a discharge of oil or a hazardous sub-  
22 stance, or that there is a potential discharge of oil or a hazardous  
23 substance, and the discharge may qualify under (1) - (3) of this  
24 subsection; or

25 (5) the division director [COMMISSIONER] reasonably be-  
26 lieves that the discharge or potential discharge poses an imminent and  
27 substantial threat to public health or welfare or to the environment.

28 \* Sec. 11. AS 46.08.190 is amended by adding a new paragraph to read:

29 (4) "division" means the division of emergency services,

1 Department of Military and Veterans' Affairs.

2 \* Sec. 12. AS 46.09.030 is amended to read:

3 Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner of  
4 environmental conservation or the director of the division of emer-  
5 gency services, Department of Military and Veterans' Affairs, may  
6 request the governor to determine that an actual or imminent release  
7 of a hazardous substance constitutes a disaster emergency under  
8 AS 26.23. If the governor declares a disaster emergency under AS 26.-  
9 23, the commissioner shall [MAY] assist the division of emergency  
10 services, Department of Military and Veterans' Affairs, [ADJUTANT  
11 GENERAL] in the relief of the emergency.

12 \* Sec. 13. AS 46.08.040(2) and 46.08.040(5) are repealed.