HOUSE BILL NO. 29

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KOPONEN

Introduced: 1/21/91
Referred: Resources, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing suits to enforce environmental laws; and having the effect of
2 amending Rules 24 and 82 of the Alaska Rules of Civil Procedure."

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

4 * **Section 1.** AS 46.03.870 is amended by adding new subsections to read:
5 (d) Except as provided in (e) of this section, a person may file a civil action against a
6 person, including the state or an agency of the state, that is alleged to be in violation of a law,
7 regulation, permit, plan, or order established under this chapter, AS 46.04, or AS 46.09. The
8 court may assess civil penalties under AS 46.03.760, issue injunctions under AS 46.03.765, and
9 order other relief.
10 (e) A person may not file a civil action under (d) of this section
11 (1) until 60 days after the plaintiff has given notice of the violation to the
12 commissioner and to the person alleged to have violated a law, regulation, permit, plan, or order;
13 or
14 (2) if the commissioner has commenced and is diligently prosecuting a civil action

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1 or administrative proceeding to require compliance with the law, regulation, permit, plan, or
2 order.
3 (f) The commissioner may intervene in a civil action under (d) of this section as a matter
4 of right. A person unable to file a civil action under (e) of this section may intervene as a matter
5 of right in a civil action or administrative proceeding brought under (e)(2) of this section.
6 (g) In the issuance of an order under this section, the court may award the costs of
7 litigation, including reasonable attorney and expert witness fees, to a substantially prevailing
8 plaintiff or a defendant if the court finds that the plaintiff's action was wholly frivolous.
9 * **Sec. 2.** AS 46.03.870(a) is repealed.
10 * **Sec. 3.** The provisions of AS 46.03.870(f), enacted by sec. 1 of this Act, have the effect of
11 changing Alaska Rule of Civil Procedure 24 by limiting the court's control over intervention of parties.
12 * **Sec. 4.** AS 46.03.870(f), enacted by sec. 1 of this Act, takes effect only if sec. 3 of this Act
13 receives a two-thirds majority vote of each house as required by art. IV, sec. 15, Constitution of the State
14 of Alaska.
15 * **Sec. 5.** The provisions of AS 46.03.870(g), enacted in sec. 1 of this Act, have the effect of
16 changing Alaska Rule of Civil Procedure 82 by revising the standards for the award of attorney fees and
17 costs.
18 * **Sec. 6.** AS 46.03.870(g), enacted in sec. 1 of this Act, takes effect only if sec. 5 of this Act
19 receives a two-thirds majority vote of each house as required by art. IV, sec. 15, Constitution of the State
20 of Alaska.