

**CS FOR HOUSE BILL NO. 264 (RESOURCES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY THE HOUSE RESOURCES COMMITTEE

**Offered: 2/18/92
Referred: Finance**

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing use of the oil and hazardous substance release response fund for
2 certain activities related to the underground petroleum storage tank program, and
3 terminating that authorization; and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1. PURPOSE.** The primary purpose of secs. 2, 4, 6, 7, 8, 11, and 12 of this Act is to
6 provide a mechanism

7 (1) that the United States Environmental Protection Agency can find to be a sure and
8 consistent source of money for providing state assurance to meet a portion of the federal financial
9 responsibility requirements for owners and operators of underground petroleum storage tanks; and

10 (2) to provide those owners and operators with financial assistance to upgrade
11 underground petroleum storage tanks so that the owner or operator can obtain private insurance to meet
12 federal financial responsibility requirements.

13 * **Sec. 2.** AS 46.03.420(h) is amended to read:

14 (h) This section does not affect the liability under state or federal law of any person, or

1 other entity that receives assistance under this section, for the costs of risk management,
2 containment, corrective action, and cleanup resulting from a release of petroleum. However,
3 notwithstanding the provisions of AS 46.08.070(a)(1) [AS 46.08.070(a)], the department may not
4 seek reimbursement of a grant made under this section unless the department determines that the
5 grant was requested under false pretenses or that other circumstances render the grant inconsistent
6 with this section or with applicable regulations. This section does not affect the authority of the
7 department to seek recovery from the owner or operator of costs other than grants and loans
8 actually made to an owner or operator under this section.

9 * Sec. 3. AS 46.03.420(h) is amended to read:

10 (h) This section does not affect the liability under state or federal law of any person, or
11 other entity that receives assistance under this section, for the costs of risk management,
12 containment, corrective action, and cleanup resulting from a release of petroleum. However,
13 notwithstanding the provisions of AS 46.08.070(a) [AS 46.08.070(a)(1)], the department may not
14 seek reimbursement of a grant made under this section unless the department determines that the
15 grant was requested under false pretenses or that other circumstances render the grant inconsistent
16 with this section or with applicable regulations. This section does not affect the authority of the
17 department to seek recovery from the owner or operator of costs other than grants and loans
18 actually made to an owner or operator under this section.

19 * Sec. 4. AS 46.08.010(c) is amended to read:

20 (c) The fund shall be used for actual expenses incurred under AS 46.08.040. Except as
21 provided in AS 46.08.040(a)(8) and (d)(2) [AS 46.08.040(d)(2)], the fund may not be used for
22 capital improvements.

23 * Sec. 5. AS 46.08.010(c) is amended to read:

24 (c) The fund shall be used for actual expenses incurred under AS 46.08.040. Except as
25 provided in AS 46.08.040(d)(2) [AS 46.08.040(a)(8) AND (d)(2)], the fund may not be used for
26 capital improvements.

27 * Sec. 6. AS 46.08.040(a) is amended to read:

28 (a) In addition to money in the fund that is transferred to the commissioner of community
29 and regional affairs to make grants under AS 29.60.510 and to pay for impact assessments under
30 AS 29.60.560, the commissioner of environmental conservation may use money from the fund
31 to

- 1 (1) investigate and evaluate the release or threatened release of oil or a hazardous
2 substance, and contain, clean up, and take other necessary action, such as monitoring and
3 assessing, to address a release or threatened release of oil or a hazardous substance that poses
4 an imminent and substantial threat to the public health or welfare, or to the environment;
- 5 (2) pay all costs incurred to
- 6 (A) establish and maintain the oil and hazardous substance response office;
- 7 (B) review oil discharge prevention and contingency plans submitted under
8 AS 46.04.030;
- 9 (C) conduct training, response exercises, inspections, and tests, in order
10 to verify equipment inventories and ability to prevent and respond to oil and hazardous
11 substance release emergencies, and to undertake other activities intended to verify or
12 establish the preparedness of the state, a municipality, or a party required by
13 AS 46.04.030 to have an approved contingency plan to act in accordance with that plan;
14 and
- 15 (D) verify or establish proof of financial responsibility required by
16 AS 46.04.040;
- 17 (3) pay the expenses incurred by the Alaska division of emergency services for
18 the oil and hazardous substance response corps and the oil and hazardous substance response
19 depots when presented with appropriate documentation by the division;
- 20 (4) provide matching funds for participation in federal oil discharge cleanup
21 activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response,
22 Compensation, and Liability Act of 1980);
- 23 (5) recover the costs to the state, a municipality, or a village of a containment and
24 cleanup resulting from the release or the threatened release of oil or a hazardous substance;
- 25 (6) prepare, review, and revise
- 26 (A) the state's master oil and hazardous substance discharge prevention
27 and contingency plan required by AS 46.04.200; and
- 28 (B) a regional master oil and hazardous substance discharge prevention
29 and contingency plan required by AS 46.04.210; [AND]
- 30 (7) restore the environment by addressing the effects of an oil or hazardous
31 substance release;

1 (8) pay for the grants and loans described in AS 46.03.410(b)(2) and (3); and
2 (9) pay the costs of enforcement of AS 46.03.360 - 46.03.450.

3 * Sec. 7. AS 46.08.040(c) is amended to read:

4 (c) Notwithstanding other provisions of this section, money from the fund may not be
5 used for a purpose specified in (a)(2) - (9) [(a)(2) - (7)] and (d)(2) of this section unless money
6 is available from an appropriation made specifically for that purpose.

7 * Sec. 8. AS 46.08.070(a) is amended to read:

8 (a) The commissioner

9 (1) shall seek reimbursement promptly under this section, AS 46.03.760(e), or
10 federal law for the cost incurred in the cleanup or containment of oil or a hazardous substance
11 that has been released;

12 (2) is not required to seek reimbursement under this section, AS 46.03.760(e),
13 or federal law of money spent for a purpose for which an expenditure of money from the
14 fund is authorized by AS 46.08.040(a)(8) if the commissioner finds that

15 (A) the owner or operator of an underground petroleum storage tank
16 system has been in compliance with all state and federal laws applicable to
17 underground petroleum storage tank systems and releases from them, including
18 notification and registration laws, but excluding financial responsibility
19 requirements; and

20 (B) the grant or loan made under AS 46.03.410(b)(2) or (3) was not
21 made to correct an underground storage tank release attributable to the owner's or
22 operator's gross negligence, recklessness, or intentional conduct.

23 * Sec. 9. AS 46.08.040(a)(8) and 46.08.070(a)(2) are repealed.

24 * Sec. 10. RETROACTIVITY. AS 46.08.040(a)(8) and (9), added by sec. 6 of this Act, and sec. 11
25 of this Act are retroactive to September 5, 1990.

26 * Sec. 11. USE OF MONEY IN THE OIL AND HAZARDOUS SUBSTANCE RELEASE
27 RESPONSE FUND. Notwithstanding the limitations of AS 46.08.040, the commissioner of
28 environmental conservation may use money in the oil and hazardous substance release response fund
29 (AS 46.08.010) to pay the expenses incurred under the underground petroleum storage tank system
30 reimbursement program authorized by sec. 7, ch. 96, SLA 1990.

31 * Sec. 12. Section 11 of this Act applies to reimbursement payments payable under sec. 7, ch. 96,

1 SLA 1990, on and after September 5, 1990.

2 * **Sec. 13.** Sections 1, 2, 4, 6 - 8, and 10 - 12 of this Act take effect immediately under
3 AS 01.10.070(c).

4 * **Sec. 14.** Sections 3, 5, and 9 of this Act take effect July 1, 1996.