

HOUSE BILL NO. 299
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Introduced: 4/24/91

Referred: House Special Committee on Oil and Gas, Resources, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal and utility liability for releases or threatened releases of
2 hazardous substances."

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

4 * Section 1. AS 46.03.822(a) is amended to read:

5 (a) Notwithstanding any other provision or rule of law and subject only to the defenses
6 set out in (b) of this section and the exceptions [EXCEPTION] set out in (i) and (k) of this
7 section, the following persons are strictly liable, jointly and severally, for damages to persons or
8 property, whether public or private, including damage to the natural resources of the state or a
9 municipality, and for the costs of response, containment, removal, or remedial action incurred by
10 the state or a municipality, resulting from an unpermitted release of a hazardous substance or,
11 with respect to response costs, the substantial threat of an unpermitted release of a hazardous
12 substance:

13 (1) the owner of, and the person having control over, the hazardous substance at
14 the time of the release or threatened release; this paragraph does not apply to a consumer product

1 in consumer use;

2 (2) the owner and the operator of a vessel or facility, from which there is a
3 release, or a threatened release that causes the incurrence of response costs, of a hazardous
4 substance;

5 (3) any person who at the time of disposal of any hazardous substance owned or
6 operated any facility or vessel at which the hazardous substances were disposed of, from which
7 there is a release, or a threatened release that causes the incurrence of response costs, of a
8 hazardous substance;

9 (4) any person who by contract, agreement, or otherwise arranged for disposal or
10 treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous
11 substances owned or possessed by the person, other than domestic sewage, or by any other party
12 or entity, at any facility or vessel owned or operated by another party or entity and containing
13 hazardous substances, from which there is a release, or a threatened release that causes the
14 incurrence of response costs, of a hazardous substance;

15 (5) any person who accepts or accepted any hazardous substances, other than
16 refined oil, for transport to disposal or treatment facilities, vessels or sites selected by the person,
17 from which there is a release, or a threatened release that causes the incurrence of response costs,
18 of a hazardous substance.

19 * Sec. 2. AS 46.03.822 is amended by adding a new subsection to read:

20 (k) A municipality or a utility, as defined in AS 42.05.720, is not liable under this section
21 for costs or damages as a result of a release or threatened release of a hazardous substance in a
22 municipal, state, or utility easement or right-of-way that occurs or is discovered as a result of
23 excavation by the municipality or the utility in the easement or right-of-way, storage of the
24 excavated material in the easement or right-of-way, or reuse or replacement of the excavated
25 material in the easement or right-of-way in or near the point of excavation unless the release or
26 threatened release was caused by actions or omissions of the municipality or utility that constitute
27 negligence, recklessness, or intentional misconduct. In this subsection, "municipal, state, or
28 utility easement or right-of-way" means a right-of-way related to a highway, road, trail, bridge,
29 tunnel, road drainage structure, underground or overhead utility, or other road-related or utility-
30 related structure owned or controlled by the state, a municipality, or a utility.