

CS FOR HOUSE BILL NO. 299 (OIL & GAS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 5/1/91
Referred: Resources, Judiciary, Finance

Sponsor(s): HOUSE SPECIAL COMMITTEE ON OIL & GAS

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 new subsections to read:

20 (k) If the municipality or utility, as appropriate, has complied with (l) of this section, a
21 municipality or utility is not liable under this section for costs or damages as a result of a release
22 or threatened release of a hazardous substance in a municipal, state, or utility easement or right-
23 of-way that is discovered as a result of excavation by the municipality or the utility in the
24 easement or right-of-way, storage of the excavated material in the easement or right-of-way, or
25 reuse or replacement of the excavated material in the easement or right-of-way in or near the
26 point of excavation unless the release or threatened release was caused by actions or omissions
27 of the municipality or utility that constitute negligence, recklessness, or intentional misconduct.
28 In this subsection,

29 (1) "municipality or utility" includes an employee of a municipality or utility who
30 is acting in the performance of official duties as an employee of the municipality or utility;

31 (2) "municipal, state, or utility easement or right-of-way" means a right-of-way

1 related to a highway, road, trail, bridge, tunnel, road drainage structure, underground or overhead
2 utility, or other road-related or utility-related structure owned or controlled by the state, a
3 municipality, or a utility;

4 (3) "utility" has the meaning given in AS 42.05.720.

5 (l) A municipality or utility that has reasonable cause to suspect that it has discovered
6 a release or threatened release of a hazardous substance as a result of excavation by the
7 municipality or the utility in a municipal, state, or utility easement or right-of-way shall report
8 that suspicion to the department as required by law.