

CS FOR HOUSE BILL NO. 377 (RULES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered: 5/11/92

Referred: Rules

Sponsor(s): REPRESENTATIVES MOYER, Boyer, Brown, Finkelstein, B.Davis, Koponen

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to procurement of alternative-fueled vehicles and transition plans to
2 reduce emissions from vehicles; establishing a small business assistance program and a
3 compliance advisory panel in the Department of Environmental Conservation in a manner
4 that will enable the state to maintain primary management of air quality in the state by
5 meeting the requirements of federal law; requiring a report to the legislature concerning
6 an air quality control permit program and permit fees; requiring studies of haze and
7 hydrocarbon pollution; and providing for an effective date."

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

9 * **Section 1. PURPOSE.** (a) The primary purpose of this Act is to bring the state into compliance
10 with the 1990 amendments to the federal Clean Air Act codified at 42 U.S.C. 7401 - 7671q. Changes
11 in state law are necessary to allow the state to continue to have primary management of air quality in
12 the state and to retain federal approval of the state's air quality control program in order to ensure the
13 continued receipt of federal highway and air pollution control money. The federal Environmental

1 Protection Agency must prohibit the approval of highway projects and highway grants, and may withhold
2 air pollution control grants, if the state does not comply with 42 U.S.C. 7401 - 7671q (Clean Air Act).

3 (b) The legislature also recognizes that the replacement of automobiles, light trucks, and vans
4 in the state fleet with vehicles fueled by energy sources other than gasoline will contribute to the
5 improvement of air quality in the communities in which they are used. Therefore, another purpose of
6 this Act is to require state agencies operating in nonattainment areas for carbon monoxide and particulate
7 matter to procure alternative-fueled vehicles.

8 * Sec. 2. AS 14.09 is amended by adding a new section to read:

9 Sec. 14.09.030. ALTERNATIVE-FUELED BUSES. (a) The department shall develop
10 plans to encourage contractors that provide school bus transportation to

11 (1) procure alternative-fueled buses; and

12 (2) develop transition plans to reduce the emission of oxides of nitrogen, volatile
13 organic compounds, carbon monoxide, and particulates from existing vehicles through vehicle
14 modification or use of oxygenated fuels.

15 (b) In this section, "alternative-fueled" means capable of operating on a fuel such as
16 compressed natural gas, liquefied petroleum gas, liquefied natural gas, methanol, ethanol, or
17 electricity that, compared to operation on regular fuel, results in lower emissions of oxides of
18 nitrogen, volatile organic compounds, carbon monoxide, or particulates.

19 * Sec. 3. AS 36.30 is amended by adding a new section to article 1 to read:

20 Sec. 36.30.097. PROCUREMENT OF CERTAIN VEHICLES. (a) When the
21 Department of Transportation and Public Facilities procures an automobile, light truck, or van,
22 other than for the Department of Public Safety, for addition to the state fleet that will be used
23 at a location in a carbon monoxide nonattainment area in which the Department of Transportation
24 and Public Facilities maintains a fleet of at least 15 vehicles, the procurement officer shall
25 procure only an alternative fueled vehicle if

26 (1) an alternative fueled vehicle is available from an original equipment
27 manufacturing company; and

28 (2) at least one compatible alternative fuel fueling facility is located in the
29 nonattainment area.

30 (b) In making a procurement under this section, the procurement officer may give a
31 preference to an automobile, light truck, or van operated on compressed natural gas.

1 (c) In this section, "alternative-fueled" means capable of operating on a fuel such as
2 compressed natural gas, liquefied petroleum gas, liquefied natural gas, methanol, ethanol, or
3 electricity that, compared to operation on regular fuel, results in lower emissions of oxides of
4 nitrogen, volatile organic compounds, carbon monoxide, or particulates.

5 * Sec. 4. AS 46.03 is amended by adding new sections to read:

6 Sec. 46.03.227. SMALL BUSINESS ASSISTANCE PROGRAM. (a) A small business
7 assistance program is established in the department.

8 (b) The small business assistance program shall

9 (1) collect, coordinate, and disseminate information on methods and technologies
10 that will assist small business facilities to comply with AS 46.03.140 - 46.03.245 and regulations
11 adopted under those sections;

12 (2) encourage lawful cooperation among small business facilities and other
13 persons to facilitate compliance with AS 46.03.140 - 46.03.245 and regulations adopted under
14 those sections;

15 (3) provide small business facilities with information on pollution prevention and
16 accidental release detection and prevention, including information on alternative technologies,
17 process changes, products, and methods of operation that help reduce air pollution;

18 (4) assist small business facilities in determining applicable requirements and in
19 receiving permits under AS 46.03.140 - 46.03.245 in a timely and efficient manner;

20 (5) ensure that small business facilities receive notice of their rights under
21 AS 46.03.140 - 46.03.245 in a manner and form that ensures adequate time for the facilities to
22 evaluate compliance methods and to evaluate applicable proposed or final regulations adopted
23 or standards issued under AS 46.03.140 - 46.03.245 or 42 U.S.C. 7401 - 7671q (Clean Air Act),
24 as amended;

25 (6) inform small business facilities of their obligations under AS 46.03.140 -
26 46.03.245 and regulations adopted under those sections;

27 (7) provide small business facility operators with a list of auditors available for
28 auditing the operation of the facility or, if possible, and at the request of a facility owner or
29 operator, audit a facility to evaluate compliance with AS 46.03.140 - 46.03.245 and regulations
30 adopted under those sections; an audit under this paragraph may not be regarded as an inspection
31 or investigation;

1 (8) assist in developing and implementing modified work practices or technical
2 changes to processes to facilitate compliance with AS 46.03.140 - 46.03.245 and regulations
3 adopted under those sections;

4 (9) coordinate with the federal small business stationary source technical and
5 environmental compliance assistance program established under 42 U.S.C. 7661f(b) (Clean Air
6 Act, sec. 507(b)), as amended;

7 (10) collect and make available guidance prepared by the federal small business
8 stationary source technical and environmental compliance assistance program;

9 (11) at the request of a facility owner or operator, refer questions concerning
10 compliance with AS 46.03.140 - 46.03.245, or with a regulation adopted or permit issued under
11 those sections, to air quality management personnel of the department; and

12 (12) designate a person to be an advocate for small businesses while serving as
13 a liaison between small businesses and air quality management personnel of the department.

14 (c) If the legislature appropriates money from the general fund for purposes of the small
15 business assistance program, the department shall provide the services listed in (b) of this section
16 to a requesting facility that is not a small business concern as defined in 15 U.S.C. 631, as
17 amended, but that otherwise meets the definition of a small business facility under AS 46.03.229
18 and is subject to the requirements of AS 46.03.140 - 46.03.245.

19 (d) After consultation with the federal administrator and the administrator of the United
20 States Small Business Administration, and after providing notice and opportunity for public
21 hearing, the department may exclude from the scope of the small business assistance program
22 a category or subcategory of small business facilities that the department finds to have sufficient
23 technical and financial capabilities to meet the requirements of AS 46.03.140 - 46.03.245 and
24 federal law without the assistance provided under AS 46.03.227 - 46.03.229.

25 Sec. 46.03.228. COMPLIANCE ADVISORY PANEL. (a) A compliance advisory panel
26 is established in the department. The panel members shall serve without compensation, but are
27 entitled to travel expenses and per diem as authorized for state boards under AS 39.20.180.

28 (b) The panel consists of

29 (1) three members, who are not owners or representatives of owners of small
30 business stationary sources, two of whom are selected by the governor to represent the general
31 public and one of whom is selected by the governor to represent either environmental or health

1 interests;

2 (2) one member selected by the commissioner to represent the department; and

3 (3) four members, who are owners or representatives of owners of small business
4 stationary sources, selected as follows:

5 (A) one shall be selected by the president of the senate and one shall be
6 selected by the speaker of the house;

7 (B) if there are members of the senate who are not part of the majority
8 caucus of the senate, the leader of the largest nonmajority group shall select a panel
9 member; if all members of the senate are in the majority caucus, then the president of the
10 senate shall select a second panel member in addition to the selection authorized under
11 (A) of this paragraph;

12 (C) if there are members of the house who are not part of the majority
13 caucus of the house, the leader of the largest nonmajority group shall select a panel
14 member; if all members of the house are in the majority caucus, then the speaker of the
15 house shall select a second panel member in addition to the selection authorized under
16 (A) of this paragraph.

17 (c) The compliance advisory panel shall

18 (1) elect a chair and agree upon procedures by which the panel will function;

19 (2) meet semi-annually at the call of the chair and give public notice of panel
20 meetings as required under AS 44.62.310 - 44.62.312;

21 (3) prepare advisory opinions concerning the effectiveness of the small business
22 assistance program, difficulties encountered in making the program efficient and effective, and
23 degree of enforcement and severity of air pollution offenses;

24 (4) make periodic reports to the administrator concerning the compliance of the
25 small business assistance program with requirements of 44 U.S.C. 3501 (Paperwork Reduction
26 Act), 5 U.S.C. 601 (Regulatory Flexibility Act), and 5 U.S.C. 504 (Equal Access to Justice Act);

27 (5) review information designed to assist small business facilities in complying
28 with this chapter to ensure that the information is understandable by laypersons; and

29 (6) have the small business advocate designated under AS 46.03.227(b)(12) assist
30 the panel in the development and dissemination of panel reports and advisory opinions.

31 Sec. 46.03.229. DEFINITIONS. In AS 46.03.227 - 46.03.229,

1 (1) "person" has the meaning given in AS 01.10.060 and also includes an agency
2 of the United States, a municipality, the University of Alaska, the Alaska Railroad Corporation,
3 and other departments, agencies, instrumentalities, units, and corporate authorities of the state;

4 (2) "small business facility" means a facility that

5 (A) is owned or operated by a person who employs 100 or fewer persons;

6 (B) is a small business concern as defined in 15 U.S.C. 631 (Small
7 Business Act); and

8 (C) emits less than 100 tons per year of regulated air contaminants.

9 * Sec. 5. TRANSITIONAL PROVISIONS. (a) The Department of Environmental Conservation shall
10 establish the assistance program required under sec. 4 of this Act by November 1, 1992.

11 (b) The persons responsible for selecting the members of the advisory panel established under
12 sec. 4 of this Act shall make their selections by November 1, 1992.

13 * Sec. 6. REPORT TO LEGISLATURE. (a) By January 31, 1993, the Department of Environmental
14 Conservation shall submit a report to the legislature that includes

15 (1) the department's recommendations for legislation to establish an air quality control
16 permit program and permit fee schedule that will

17 (A) meet the requirements of 42 U.S.C. 7401 - 7671q (Clean Air Act), as
18 amended; the department shall solicit the comments of appropriate officials in the federal
19 Environmental Protection Agency as to the legal adequacy under federal law of the recommended
20 legislation and submit to the legislature any comments received from the federal officials;

21 (B) equitably allocate direct and indirect costs of the program among owners and
22 operators of facilities that are required to have permits under AS 46.03.140 - 46.03.245; and

23 (C) ensure maximum efficiency and minimize total cost of all program elements
24 that will be financially supported by the permit fees, including staffing for permit applications
25 and meetings;

26 (2) the department's recommendations for a fee schedule for permits issued under
27 AS 46.03.140 - 46.03.245, including

28 (A) a detailed discussion of the facts and rationale for the proposed schedule;

29 (B) a detailed comparison between the cost and staffing data for the department's
30 air quality permit program and other similar regulatory programs administered by the department,
31 based on the number of permits issued or otherwise processed annually; and

1 (C) a comparison of the proposed fee schedule with the fee schedules of at least
2 five other states that have air quality permit programs that are operating in compliance with 42
3 U.S.C. 7401 - 7671q (Clean Air Act), as amended; and

4 (3) a summary of the public comments received under (b) of this section, including
5 alternative fee schedules suggested by the public, and the department's analysis of the public comments.

6 (b) In preparation for submitting the final report required under (a) of this section, the
7 Department of Environmental Conservation shall, by November 15, 1992, publish a draft report for
8 public review and comment. The draft report must contain the information required under (a)(1) and
9 (2) of this section.

10 * Sec. 7. HAZE AND HYDROCARBON STUDIES; REPORT. (a) The Department of
11 Environmental Conservation shall contract with qualified experts to perform studies of haze and
12 hydrocarbon air pollution in areas of the state that are carbon monoxide nonattainment areas under
13 federal law. The studies must include

14 (1) monitoring in neighborhoods, industrial centers, and areas of high vehicular use;

15 (2) determination of the major components and sources of haze and hydrocarbon
16 pollution;

17 (3) assessment of the health, safety, and environmental effects of haze and hydrocarbon
18 pollution;

19 (4) identification of program alternatives designed to prevent, abate, and control haze and
20 hydrocarbon pollution.

21 (b) The Department of Environmental Conservation shall, by January 15, 1994, report to the
22 legislature concerning the studies performed under (a) of this section. The report must include the
23 department's legislative recommendations for program authorization to prevent, abate, and control haze
24 and hydrocarbon air pollution, including recommendations concerning whether the state should have
25 ambient or emission standards relating to these types of pollution that are more stringent than applicable
26 federal standards.

27 * Sec. 8. COOPERATION. The Department of Transportation and Public Facilities and the
28 Department of Environmental Conservation shall cooperate with each other as necessary to achieve
29 implementation of AS 36.30.097, enacted by sec. 3 of this Act, by July 1, 1994.

30 * Sec. 9. Sections 2 and 3 of this Act take effect July 1, 1994.

31 * Sec. 10. Except as provided in sec. 9 of this Act, this Act takes effect immediately under

1 AS 01.10.070(c).