

HOUSE BILL NO. 540

**IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY REPRESENTATIVES HUDSON, Navarre

Introduced: 2/18/92

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

A BILL

FOR AN ACT ENTITLED

1 "An Act limiting the liability of an oil spill response action contractor for an act or
2 omission that is not contrary to an approved oil spill contingency plan or the state or
3 national oil spill contingency plans or, notwithstanding the state or national plans, that is
4 not contrary to an order of an on-scene coordinator; repealing the requirements that
5 liability is not limited in an action for damages to personal property not caused by oil
6 and is only limited if the act or omission occurs within 15 days after the release of oil;
7 repealing secs. 2, 5, 7, 10, and 12 of ch. 92, SLA 1991; and providing for an effective
8 date."

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

10 * **Section 1.** AS 46.03.825(a) is amended to read:

11 (a) A person who is a response action contractor with respect to a release or threatened
12 release of oil whose act or omission is not contrary to an oil spill contingency plan previously

1 approved under AS 46.04.030 or the national contingency plan prepared under 33 U.S.C.
2 1321(d) or notwithstanding the contingency plan approved under AS 46.04.030 or the
3 national contingency plan is not contrary to an order of the federal or state on-scene
4 coordinator is not civilly liable for injuries, costs, damages, expenses, or other liability that results
5 from the release or threatened release, or from the response action contractor's act or omission
6 in response to the release or threatened release, unless the person bringing a claim against the
7 response action contractor proves by a preponderance of the evidence that

8 (1) the response action contractor would have been liable for the initial release
9 or threatened release under AS 46.03.822 even if that contractor had not carried out a response
10 action; or

11 (2) the response action contractor acted with gross negligence or intentional
12 misconduct [; OR

13 (3) THE RESPONSE ACTION CONTRACTOR, WITHOUT APPROVAL BY
14 THE FEDERAL OR STATE ON-SCENE COORDINATOR, SUBSTANTIALLY DEVIATED
15 FROM AN OIL SPILL CONTINGENCY PLAN PREVIOUSLY APPROVED UNDER
16 AS 46.04.030, AND THE PLAN WAS EITHER PREPARED BY THAT CONTRACTOR FOR
17 A PARTY RESPONSIBLE FOR THE RELEASE UNDER AS 46.03.822 OR THAT
18 CONTRACTOR PREVIOUSLY AGREED TO COMPLY WITH THE TERMS OF THAT PLAN
19 UNDER A CONTRACT WITH PARTIES RESPONSIBLE FOR THE RELEASE UNDER
20 AS 46.03.822].

21 * Sec. 2. AS 46.03.825(b) is amended to read:

22 (b) The limitation on liability contained in (a) of this section does not apply to

23 [(1)] an action for personal injury or death [;

24 (2) AN ACTION FOR DAMAGES TO TANGIBLE PERSONAL PROPERTY
25 NOT CAUSED BY OIL; OR

26 (3) AN ACT OR OMISSION THAT OCCURS MORE THAN 15 DAYS AFTER
27 THE RELEASE].

28 * Sec. 3. Sections 2, 5, 7, 10, and 12 of ch. 92, SLA 1991, are repealed.

29 * Sec. 4. If this Act takes effect after June 30, 1992, sec. 3 of this Act is retroactive to June 30, 1992.

30 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).