

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 540
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY REPRESENTATIVES HUDSON, Navarre, G.Phillips, Taylor, Zawacki

Introduced: 2/21/92

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

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

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

10 (a) A person who is a response action contractor with respect to a release or threatened
11 release of oil whose act or omission is not contrary to a state oil spill contingency plan
12 approved under AS 46.04.200 or 46.04.210, or the national contingency plan prepared under
13 33 U.S.C. 1321(d), or notwithstanding the state or national contingency plan approved

1 under AS 46.04.200, 46.04.210, or 33 U.S.C. 1321(d) is not contrary to an order of the federal
2 or state on-scene coordinator, is not civilly liable for injuries, costs, damages, expenses, or other
3 liability that results from the release or threatened release, or from the response action
4 contractor's act or omission in response to the release or threatened release, unless the person
5 bringing a claim against the response action contractor proves by a preponderance of the evidence
6 that

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

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

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

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

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

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

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

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

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

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

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