

**CS FOR SENATE BILL NO. 263 (JUDICIARY)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 5/10/91**

**Referred: Rules**

**Sponsor(s): SENATORS HOFFMAN, Adams, Zharoff**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to oil discharge prevention and contingency plans and financial  
2 responsibility requirements for oil operations; and providing for an effective date."

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

4 \* **Section 1. FINDINGS.** The legislature finds that

5 (1) whereas crude oil companies have indicated their intention and ability to be in  
6 compliance with the June 1, 1991, applicability date of ch. 191, SLA 1990, including the new oil spill  
7 response planning standards and new financial responsibility requirements, the entities involved in the  
8 transportation and storage of noncrude oil are finding it difficult, if not impossible, to meet those  
9 requirements by June 1, 1991, due to unforeseen developments;

10 (2) these developments include the fact that the London insurance markets, historically  
11 the source of pollution liability insurance underwriting, are steadfastly refusing to offer policies that meet  
12 the new financial responsibility requirements imposed by ch. 191, SLA 1990; most notably, they have  
13 refused to issue certificates of financial responsibility or make themselves available for direct legal action  
14 in Alaska courts;

1 (3) while larger companies involved in the transportation and storage of crude oil have  
2 the financial ability to meet the new financial responsibility requirements through self-insurance, surety  
3 bonding, or letters of credit, most noncrude transporters and facility operators do not have the financial  
4 resources to make use of these avenues to satisfy the requirements;

5 (4) additionally, a study mandated by ch. 191, SLA 1990, designed to identify appropriate  
6 spill response times, specify personnel levels and equipment requirements, and identify specific locations  
7 for oil discharge response equipment depots for noncrude oil tankers and barges will not be completed  
8 until at least one month after June 1, 1991; this study's findings could have a significant effect on  
9 emergency spill response planning by both transporters and the state;

10 (5) taken together, the uncertainties posed by these developments create a strong  
11 possibility that many noncrude transporters and facility operators will find it necessary to either operate  
12 illegally or cease operations in the state after June 1, 1991, which would in turn pose serious problems  
13 for the residents of communities dependent on delivery and storage of noncrude oil products for fuel and  
14 electrical generation;

15 (6) a one-year delay to June 1, 1992, in the applicability date for compliance with the  
16 requirements of ch. 191, SLA 1990, for noncrude transporters and facility operators will allow thorough  
17 consideration of the study described in (4) of this section and implementation of its findings into  
18 emergency response planning; will permit noncrude transporters and operators to explore other options  
19 to meet the statute's financial responsibility requirements, including the possibility of developing an  
20 insurance pool to replace the coverage no longer being offered by the traditional insurance markets; and  
21 will provide adequate time for the Department of Environmental Conservation to develop its  
22 implementing regulations for contingency planning.

23 \* Sec. 2. Section 32, ch. 191, SLA 1990, is amended to read:

24 Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec.  
25 10 of this Act, do not apply to oil discharge prevention and contingency plans for crude oil  
26 operations until June 1, 1991. On and after June 1, 1991, a contingency plan for a crude oil  
27 operation must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless  
28 of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec.  
29 9 of this Act.

30 (b) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply  
31 to persons required to show proof of financial responsibility for crude oil operations until

1 June 1, 1991. On and after June 1, 1991, proof of financial responsibility for a crude oil  
2 operation must comply with AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless  
3 of whether acceptance of proof of financial responsibility has expired under AS 46.04.040(f), as  
4 amended by sec. 16 of this Act.

5 \* Sec. 3. Section 32, ch. 191, SLA 1990, is amended by adding new subsections to read:

6 (c) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge  
7 prevention and contingency plans for noncrude oil operations until June 1, 1992. On and after June 1,  
8 1992, a contingency plan for a noncrude oil operation must comply with AS 46.04.030(k) - (m), enacted  
9 by sec. 10 of this Act, regardless of whether the contingency plan is due for renewal under  
10 AS 46.04.030(d), as amended by sec. 9 of this Act.

11 (d) The amendments to AS 46.04.040 made by secs. 11 - 13 of this Act do not apply to persons  
12 required to show proof of financial responsibility for noncrude oil operations until June 1, 1992. On and  
13 after June 1, 1992, proof of financial responsibility for a noncrude oil operation must comply with  
14 AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of  
15 financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.

16 \* Sec. 4. INTERIM OPERATION. (a) A person with a crude oil discharge prevention and  
17 contingency plan that is approved under AS 46.04.030 who submits plan amendments to the department  
18 to show compliance with the requirements of ch. 191, SLA 1990, may continue to operate if the  
19 department determines and notifies the person in writing that the contingency plan, as amended,  
20 substantially complies with the requirements of ch. 191, SLA 1990. The department's notification of  
21 substantial compliance for the interim contingency plan will allow the operator to continue operation  
22 regardless of whether the department has completed any notice process otherwise required by the Alaska  
23 Coastal Management Program for the interim operation.

24 (b) The authority to operate under this section is valid only until the earliest of the following  
25 dates:

26 (1) the date the department takes action on the amended plan under AS 46.04.030 by  
27 approving it, disapproving it, or approving it with terms or conditions attached; notwithstanding  
28 AS 46.04.030(p), the department's action on the amended plan need not occur within 65 days of  
29 submission of the amendments;

30 (2) the date the department revokes the plan under AS 46.04.030;

31 (3) the date the plan's previous approval lapses or expires for failure to be renewed; or

1 (4) February 1, 1992.

2 (c) In this section, "department" means the Department of Environmental Conservation.

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