

**SENATE BILL NO. 384**

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR MENARD

Introduced: 3/5/92  
Referred: Resources, Finance

**A BILL****FOR AN ACT ENTITLED**

1 "An Act amending the purposes for which money in the oil and hazardous substance  
2 release response fund may be expended and to reimbursements due to that fund; and  
3 providing for an effective date."

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

5 \* Section 1. AS 46.03.420(h) is amended to read:

6 (h) This section does not affect the liability under state or federal law of any person, or  
7 other entity that receives assistance under this section, for the costs of risk management,  
8 containment, corrective action, and cleanup resulting from a release of petroleum. However,  
9 notwithstanding the provisions of AS 46.08.070(a)(1) [AS 46.08.070(a)], the department may not  
10 seek reimbursement of a grant made under this section unless the department determines that the  
11 grant was requested under false pretenses or that other circumstances render the grant inconsistent  
12 with this section or with applicable regulations. This section does not affect the authority of the  
13 department to seek recovery from the owner or operator of costs other than grants and loans  
14 actually made to an owner or operator under this section.

1 \* **Sec. 2.** AS 46.08.010(c) is amended to read:

2 (c) **The fund shall be used**

3 (1) **for actual expenses incurred under AS 46.08.040; and**

4 (2) **[. EXCEPT AS PROVIDED IN AS 46.08.040(d)(2), THE FUND MAY NOT**  
5 **BE USED] for capital improvements authorized by AS 46.08.040(a)(8) and (d)(2).**

6 \* **Sec. 3.** AS 46.08.040(a) is amended to read:

7 (a) **In addition to money in the fund that is transferred to the commissioner of community**  
8 **and regional affairs to make grants under AS 29.60.510 and to pay for impact assessments under**  
9 **AS 29.60.560, the commissioner of environmental conservation may use money from the fund**  
10 **to**

11 (1) **investigate and evaluate the release or threatened release of oil or a hazardous**  
12 **substance, and contain, clean up, and take other necessary action, such as monitoring and**  
13 **assessing, to address a release or threatened release of oil or a hazardous substance that poses**  
14 **an imminent and substantial threat to the public health or welfare, or to the environment;**

15 (2) **pay all costs incurred to**

16 (A) **establish and maintain the oil and hazardous substance response office;**

17 (B) **review oil discharge prevention and contingency plans submitted under**  
18 **AS 46.04.030;**

19 (C) **conduct training, response exercises, inspections, and tests, in order**  
20 **to verify equipment inventories and ability to prevent and respond to oil and hazardous**  
21 **substance release emergencies, and to undertake other activities intended to verify or**  
22 **establish the preparedness of the state, a municipality, or a party required by AS**  
23 **46.04.030 to have an approved contingency plan to act in accordance with that plan; and**

24 (D) **verify or establish proof of financial responsibility required by AS**  
25 **46.04.040;**

26 (3) **pay the expenses incurred by the Alaska division of emergency services for**  
27 **the oil and hazardous substance response corps and the oil and hazardous substance response**  
28 **depots when presented with appropriate documentation by the division;**

29 (4) **provide matching funds for participation in federal oil discharge cleanup**  
30 **activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response,**  
31 **Compensation, and Liability Act of 1980);**

1 (5) recover the costs to the state, a municipality, or a village of a containment and  
2 cleanup resulting from the release or the threatened release of oil or a hazardous substance;

3 (6) prepare, review, and revise

4 (A) the state's master oil and hazardous substance discharge prevention  
5 and contingency plan required by AS 46.04.200; and

6 (B) a regional master oil and hazardous substance discharge prevention  
7 and contingency plan required by AS 46.04.210; and

8 (7) restore the environment by addressing the effects of an oil or hazardous  
9 substance release; and

10 (8) pay the expenses of each of the following that are incurred with respect  
11 to regulation and pollution prevention involving motor fuel, petroleum, and chemical  
12 storage tanks:

13 (A) expenditures made by the Board of Storage Tank Assistance  
14 incurred under AS 46.03.360 - 46.03.363;

15 (B) the department's program of abatement and pollution prevention  
16 from underground petroleum storage tank systems under AS 46.03.365;

17 (C) the department's programs of

18 (i) educational assistance authorized by AS 46.03.370;

19 (ii) storage tank worker certification authorized by  
20 AS 46.03.375;

21 (iii) registration of underground petroleum storage tanks and  
22 tank systems required by AS 46.03.380 - 46.03.400;

23 (iv) tank tightness and site assessment under AS 46.03.415;

24 (v) tank cleanup under AS 46.03.420; and

25 (vi) tank upgrading and closure under AS 46.03.430.

26 \* Sec. 4. AS 46.08.040(c) is amended to read:

27 (c) Notwithstanding other provisions of this section, money from the fund may not be  
28 used for a purpose specified in (a)(2) - (8) [(a)(2) - (7)] and (d)(2) of this section unless money  
29 is available from an appropriation made specifically for that purpose.

30 \* Sec. 5. AS 46.08.070(a) is amended to read:

31 (a) The commissioner

1                   (1) shall seek reimbursement promptly under this section, AS 46.03.760(e), or  
2 federal law for the cost incurred in the cleanup or containment of oil or a hazardous substance  
3 that has been released;

4                   (2) is not required to seek reimbursement under this section. AS 46.03.760(e),  
5 or federal law for costs incurred for which an expenditure is made from the oil and  
6 hazardous release response fund for a purpose authorized by AS 46.08.040(a)(8).

7 \* **Sec. 6. USE OF MONEY IN THE OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE**  
8 **FUND.** The commissioner of environmental conservation may use money in the oil and hazardous  
9 substance release response fund (AS 46.08.010) to pay the expenses incurred under the underground  
10 petroleum storage tank system reimbursement program authorized by sec. 7, ch. 96, SLA 1990.

11 \* **Sec. 7.** Section 6 of this Act applies to reimbursement payments payable under sec. 7, ch. 96, SLA  
12 1990, on and after September 5, 1990.

13 \* **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).