

**COMMITTEE REPORT**  
**SENATE**

FURTHER:

5/10/84

Date 5/10/84

Mr. President

The Committee on FINANCE considered SB 303

hazardous waste.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_  
 new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

SEN FIN  
Comm bill file  
SB 503

DRAFT

May

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: May 10, 1984

REQUEST  
Bill/Resolution No.: CSSB 503  
Title: Hazardous Waste...

FISCAL DETAIL  
Agency Affected: Environmental Conservation  
Program Category Affected: NRMEC

Sponsor: Senate Resources  
Requestor:  
Date of Request:

BRU, Program or Subprogram(s) Affected:  
Environmental Quality Management  
Air and Solid Waste Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING		6 months				
100 PERSONAL SERVICES		65.9	131.7	131.7		
200 TRAVEL		16.0	16.0	16.0		
300 CONTRACTUAL		123.4	101.8	116.8		
400 SUPPLIES		2.0	4.0	4.0		
500 EQUIPMENT		13.6	3.2	3.2		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		220.9	256.7	271.7		

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		220.9	256.7	271.7		
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3.0	3.0	3.0		
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: [Signature] Phone: \_\_\_\_\_  
Division: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

ANALYSIS OF FISCAL NOTE  
CSSB 503  
MAY 10, 1984

- A. Details of the costs for recommending the site and type of state owned/ sponsored hazardous waste management facility.

Assumptions:

- (a) The project will take six to seven years to complete through contracts managed by the Department of Environmental Conservation.
- (b) In the first year, develop the specific details of siting criteria, the appropriate types of facilities to be evaluated based on industries regulated and types of waste, and five or more general areas for evaluation.

In the second and third years, identify five potential sites, the type(s) of facility to be located at each, and begin physical evaluations of the sites.

- (c) In the next three to four years, conduct detailed evaluations of the five sites, including such parameters as meteorology, geology, hydrology, access, and socioeconomic factors. The cost could range from 500.0 to 2 million per site - an average of 1.25 million is estimated to justify each site to the public. Excess funds would be reserved for the design of the facility after approval of the site by the governor and legislature. (To be included in fiscal note in the 1986 fiscal audit cycle.)
  - (d) In the sixth/seventh year conduct the public review of at least two sites.
  - (e) Prepare recommendation for the governor and legislature.
  - (f) No inflation of costs or salaries.
- B. Details of the costs for a collection and transportation service for disposal of hazardous waste from small quantity generators and households.

Assumptions:

- (a) The project will be for at least three and one half years.
- (b) There will be "cleanups" in four or more cities per year.
- (c) No inflation of transportation or disposal costs.
- (d) An aggressive program of technical assistance to the small quantity generator to assure conformance to RCRA (Applicable Federal Hazardous Waste regulations).
- (e) A comprehensive public information campaign each year to maximize legal collection and disposal of hazardous wastes.
- (f) Analysis of the types, quantities and sources of hazardous wastes to provide information for the state hazardous waste facility siting project.

(g) Site for the collection activity and security will be provided by local government.

C. Details of the amounts in the fiscal note.

(1) Personal Services.

1	Environmental Engineer (Range 19) (for siting of hazardous waste facility)	50.0
1	Administrative Assistant (Range 12) (for siting of hazardous waste facility)	31.7
1	Environmental Engineer III (Range 19) (for education and hazardous waste collection efforts)	50.0
	<u>Total</u>	
		FY 85 65.9
		FY 86 131.7
		FY 87 131.7

(2) Travel

Moving costs of the 2 environmental Engineers: the department has found that the specialized expertise required cannot be found in Alaska	12.0	FY 85
Travel in support of project work (technical assistance and public information)	3.0	FY 85
	12.0	FY 86
	12.0	FY 87
Travel to meet with contractors, local governments, public meetings	1.0	FY 85
	4.0	FY 86
	4.0	FY 87
<u>Total</u>		
		FY 85 16.0
		FY 86 16.0
		FY 87 16.0

(3) Contractual

Office costs (5.6 per person -- telephone, xerox, janitor)	8.4	FY 85
	16.8	FY 86
	16.8	FY 87
Inventory the types, amounts and location of hazardous waste generated in Alaska as regulated by proposed state regulations	10.0	FY 85
Determine the type(s) and capacity(ies) of hazardous waste management facilities needed		

to provide an economic means for managing wastes including transportation, storage, chemical treatment, recycling and disposal facilities with particular emphasis on encouraging alternatives to land disposal. 35.0 FY 85

Develop regulations requiring by AS 46.03. 313(b)(2) interpreting and clarifying siting criteria and establishing the public process for determining approvability of a site 45.0 FY 85

Determine five or more areas which are suitable for the types of facilities proposed in the siting of a hazardous waste facility. 50.0 FY 86

Based on the criteria in the inventory done in FY 85, determine the suitability of three or more specific sites for facilities. 75.0 FY 87

Identify alternative models of industrial and governmental financing for the proposed facilities and incentives/inducements to encourage community acceptance of a facility. 10.0 FY 86

Incremental amount needed over FY 85 operating budget funds for increased "cleanups" in four sites. 25.0 FY 85  
25.0 FY 86  
25.0 FY 87

<u>Total</u>	FY 85	123.4
	FY 86	101.8
	FY 87	116.8

(4) Supplies

Replace expendable laboratory, safety materials 2.0 FY 86  
2.0 FY 87

office 2.0 FY 85  
2.0 FY 86  
2.0 FY 87

(5) Equipment

Office equipment 5.1 FY 85

Safety equipment and replacements 8.5 FY 85  
3.2 FY 86  
3.2 FY 87

<u>Total</u>	FY 85	13.6
	FY 86	3.2
	FY 87	3.2



Official Business

# Alaska State Legislature

III

Pouch V  
State Capitol  
Juneau, Alaska 99801

AMENDMENT by FERGUSON

CS SB 503 (Res)

Page 1, line 7 after the word "violations;" Insert:

public contracts;

Page 9, between lines 10 and ~~11~~<sup>9d</sup> Insert a new section to read:

Sec. 10. AS 36.98 is amended by adding a new section to read:

Sec. 36.98.090. PROHIBITIONS.

A legislative staff member may not solicit or receive a contract <sup>concerning</sup> from a state agency or department other than the legislature during the interim following the session in which the person worked. This section applies to all legislative staff members range 18 or higher.

Renumber remaining section accordingly.

According to  
waste

Offered: 4/24/84  
Referred: Judiciary

Original sponsor: Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 CS FOR SENATE BILL NO. 503 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to hazardous waste; changing pen-  
7 alties for environmental pollution violations; and  
8 providing for an effective date "  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. AS 46.03.299 is repealed and reenacted to read:  
11 Sec. 46.03.299. REGULATION OF HAZARDOUS WASTE. (a) The depart-  
12 ment shall, in accordance with the Administrative Procedure Act  
13 (AS 44.62),  
14 (1) adopt by reference and enforce regulations relating to  
15 hazardous waste management adopted by the federal government under  
16 42 U.S.C. 6921 - 6934, as amended; and  
17 (2) not later than July 1, 1986, adopt other regulations  
18 that take effect July 1, 1987, for the management of hazardous waste,  
19 including waste that exhibits the characteristic of toxicity, persis-  
20 tence, or carcinogenicity, or other characteristics identified as  
21 hazardous by the Environmental Protection Agency.  
22 (b) Regulations adopted under (a) of this section shall exempt  
23 from their coverage mining waste and waste associated with the explo-  
24 ration, development, or production of crude oil, natural gas, or  
25 geothermal energy until studies required under 42 U.S.C. 6982(f) and  
26 (m) are completed. The department, after considering the findings in  
27 the reports of these studies, may terminate or amend the exemptions.  
28 (c) The department shall take all actions necessary to receive  
29 authorization from the administrator of the Environmental Protection

1 Agency to administer and enforce a hazardous waste program in accor-  
2 dance with 42 U.S.C. 6901 - 6987 (Resource Conservation and Recovery  
3 Act of 1976).

4 (d) Regulations adopted under (a) of this section shall cover  
5 (1) hazardous waste, not otherwise exempted by law, that is generated  
6 in any month by a single generator in an amount of 220 pounds or more,  
7 and (2) acute hazardous wastes identified in 40 C.F.R. 261.33(e), not  
8 otherwise exempted by law, that are generated in any month by a single  
9 generator in an amount of 2.2 pounds or more. The department shall  
10 extend the regulations to manage smaller quantities of hazardous waste  
11 if the quantities specified in this subsection exceed the quantities  
12 regulated under the authority of 42 U.S.C. 6921 - 6934, as amended.  
13 The department may at any time extend coverage of regulations adopted  
14 under (a)(2) of this section to small quantities of hazardous waste  
15 and acute hazardous waste.

16 (e) During the period July 1, 1986 through June 30, 1987 the  
17 department shall conduct a program to inform persons of their re-  
18 sponsibilities under regulations adopted under (a)(2) of this section.

19 \* Sec. 2. AS 46.03.308 is repealed and reenacted to read:

20 Sec. 46.03.308. TRANSPORTATION OF HAZARDOUS WASTE. (a) Hazard-  
21 ous waste may not be transported in the state unless the waste is  
22 accompaned by a manifest and the generator or transporter has de-  
23 livered a copy of the manifest to the department before the transpor-  
24 tation begins.

25 (b) The department shall send a copy of each manifest received  
26 under (a) of this section to the state and local public safety agen-  
27 cies with jurisdiction over areas covered by a hazardous waste trans-  
28 portation route.

29 \* Sec. 3. AS 46.03 is amended by adding a new section to read:

1           Sec. 46.03.309. TEMPORARY COLLECTION OF HAZARDOUS WASTE. The  
2 department shall provide for the temporary collection of hazardous  
3 waste to be prepared for shipment to a federally approved hazardous  
4 waste disposal site. The department shall establish four periods in  
5 each calendar year during which it shall collect hazardous waste. A  
6 collection point may accept hazardous waste only from small quantity  
7 generators and household generators as defined by the Environmental  
8 Protection Agency.

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

10           Sec. 46.03.313. HAZARDOUS WASTE MANAGEMENT FACILITIES AND SITES.

11 (a) The department shall evaluate and select potential sites for  
12 hazardous waste management facilities in the state. In evaluating and  
13 selecting sites for management facilities, the department shall con-  
14 sider at least the following factors:

15           (1) economic feasibility, including proximity to concen-  
16 trations of generators of the types of hazardous waste likely to be  
17 proposed and permitted for management;

18           (2) intrinsic suitability of the sites;

19           (3) federal and state pollution control and environmental  
20 protection regulations;

21           (4) the risk and effect for local residents, units of  
22 government, and the local public health, safety, and welfare, includ-  
23 ing such dangers as an accidental release of waste during transporta-  
24 tion to a facility or at a facility, water, air, and land pollution,  
25 and fire or explosion;

26           (5) the consistency of a facility with, and its effect on,  
27 existing and planned local land use and development; local laws,  
28 ordinances, and permits; and local public facilities and services; and

29           (6) the adverse effects of a facility at the site on

1 agriculture and natural resources and opportunities to mitigate or  
2 eliminate the adverse effects by stipulations, conditions, and re-  
3 quirements relating to the design and operation of a management facil-  
4 ity at the proposed site.

5 (b) By July 1, 1986, the department shall adopt regulations that

6 (1) interpret and clarify the factors listed in (a) of this  
7 section; and

8 (2) establish procedures for processing, reviewing, and  
9 approving or disapproving applications for the siting and operation of  
10 privately owned hazardous waste management facilities.

11 (c) The department may authorize the siting and operation of  
12 privately owned hazardous waste management facilities in accordance  
13 with factors and requirements established under this section.

14 (d) The department shall hold public hearings in each election  
15 district in which a hazardous waste management facility site is pro-  
16 posed to be located. The department shall give reasonable public  
17 notice of the time, date, and place of each public hearing at least 30  
18 days before the hearing. The public shall be afforded an opportunity  
19 at each hearing to submit written and oral testimony concerning a  
20 potential site. The department shall consider the testimony submitted  
21 at public hearings when it prepares reports under AS 46.03.314.

22 (e) For purposes of this section, "intrinsic suitability" of a  
23 site means that, based on existing data on the inherent and natural  
24 attributes, physical features, and location of the site, there is no  
25 known reason why a waste management facility that may be located in  
26 the site could not reasonably be expected to qualify for a permit  
27 under AS 46.03.302.

28 Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a)  
29 Not later than July 1, 1987, the department shall submit to the

1 governor and the legislature a preliminary report that includes

2 (1) proposals for the siting of hazardous waste management  
3 facilities in the state;

4 (2) proposals for the methods of financing and operating  
5 the facilities;

6 (3) proposals for the types of facilities that should be  
7 constructed, such as chemical processing facilities, incineration  
8 facilities, and transfer and storage facilities; and

9 (4) information about private hazardous waste management  
10 sites and facilities approved by the department.

11 (b) Not later than July 1, 1989, the department shall submit to  
12 the governor and the legislature a final report that includes

13 (1) identification of sites selected by the department for  
14 hazardous waste management facilities;

15 (2) recommendations for the methods of financing and oper-  
16 ating facilities at the sites listed in (1) of this subsection;

17 (3) recommendations for the types of facilities that should  
18 be constructed at sites listed in (1) of this subsection; and

19 (4) information about private hazardous waste management  
20 sites and facilities approved by the department.

21 \* Sec. 5. AS 46.03.760(a) is amended to read:

22 (a) A person who violates or causes or permits to be violated a  
23 provision of this chapter other than AS 46.03.250 - 46.03.314, or a  
24 provision of [OR] AS 46.04, or a regulation, a lawful order of the  
25 department, or a permit, approval, or acceptance, or term or condition  
26 of a permit, approval, or acceptance issued under this chapter or  
27 AS 46.04 is liable, in a civil action, to the state for a sum to be  
28 assessed by the court of not less than \$500 nor more than \$100,000 for  
29 the initial violation, nor more than \$5,000 for each day after that

1 [THEREAFTER] on which the violation continues, and that [WHICH] shall  
2 reflect, when applicable,

3 (1) reasonable compensation in the nature of liquidated  
4 damages for any adverse environmental effects caused by the violation,  
5 that [WHICH] shall be determined by the court according to the toxi-  
6 city, degradability and dispersal characteristics of the substance  
7 discharged, the sensitivity of the receiving environment, and the  
8 degree to which the discharge degrades existing environmental quality;

9 (2) reasonable costs incurred by the state in detection,  
10 investigation, and attempted correction of the violation; [AND]

11 (3) the economic savings realized by the person in not  
12 complying with the requirement for which a violation is charged.

13 \* Sec. 6. AS 46.03.760(b) is amended to read:

14 (b) Except as determined by the court under (f)(4) of this  
15 section, actions [ACTIONS] under this section may not be used for  
16 punitive purposes, and sums assessed by the court must be compensatory  
17 and remedial in nature.

18 \* Sec. 7. AS 46.03.760 is amended by adding a new subsection to read:

19 (f) A person who violates or causes or permits to be violated a  
20 provision of AS 46.03.250 - 46.03.314, or a regulation, a lawful order  
21 of the department, or a permit, approval, or acceptance, or term or  
22 condition of a permit, approval, or acceptance issued under AS 46.-  
23 03.250 - 46.03.314 is liable, in a civil action, to the state for a  
24 sum to be assessed by the court of not less than \$500 nor more than  
25 \$100,000 for the initial violation, nor more than \$10,000 for each day  
26 after that on which the violation continues, and that shall reflect,  
27 when applicable,

28 (1) reasonable compensation in the nature of liquidated  
29 damages for any adverse environmental effects caused by the violation,

1 that shall be determined by the court according to the toxicity,  
2 degradability and dispersal characteristics of the substance dis-  
3 charged, the sensitivity of the receiving environment, and the degree  
4 to which the discharge degrades existing environmental quality;

5 (2) reasonable costs incurred by the state in detection,  
6 investigation, and attempted correction of the violation;

7 (3) the economic savings realized by the person in not  
8 complying with the requirement for which a violation is charged; and

9 (4) the need for an enhanced civil penalty to deter future  
10 noncompliance.

11 \* Sec. 8. AS 46.03.790 is amended to read:

12 Sec. 46.03.790. CRIMINAL PENALTIES. (a) Except as provided in  
13 (d) - (f) of this section, a [A] person who negligently violates [OR  
14 WHO CAUSES OR PERMITS A VIOLATION OF] a provision of this chapter or  
15 AS 46.04, or of a regulation, lawful order of the department, or  
16 permit, approval, or acceptance, or term or condition of a permit,  
17 approval, or acceptance issued under this chapter or AS 46.04 is  
18 guilty of a class B misdemeanor.

19 (b) Except as provided in (d) - (f) of this section, a [A]  
20 person who knowingly [WILFULLY] violates a provision of this chapter  
21 or AS 46.04, or of a regulation, lawful order of the department, or  
22 permit, approval, or acceptance, or term or condition of a permit,  
23 approval, or acceptance issued under this chapter or AS 46.04 is  
24 guilty of a class A misdemeanor.

25 (c) Each day on which a violation described in [(a) OR (b) OF]  
26 this section occurs is considered a separate violation.

27 (d) Notwithstanding (a) and (b) of this section, a [A] person  
28 who fails to provide or falsely states information required under  
29 AS 46.03.755 or AS 46.04 is guilty of a misdemeanor and, upon convic-

1 tion, is punishable by a fine of not more than \$25,000, or by impri-  
2 sonment for not more than ~~one~~ year, or by both. Each unlawful act  
3 constitutes a separate offense.

4 (e) Notwithstanding (a) and (b) of this section, a person who  
5 knowingly (1) transports any hazardous waste to a facility without a  
6 permit required under AS 46.03.250 - 46.03.314; (2) treats, stores, or  
7 disposes of hazardous waste without a permit required under AS 46.-  
8 03.250 - 46.03.314; or (3) makes a false statement or representation  
9 in an application, label, manifest, record, report, permit, or other  
10 document filed, maintained, or used for purposes of compliance with  
11 the hazardous waste provisions of AS 46.03.250 - 46.03.314 or regu-  
12 lations adopted under those provisions, is punishable by a fine of not  
13 more than \$10,000 per day or by imprisonment for not more than one  
14 year, or both.

15 (f) Notwithstanding the penalty provisions of (a) - (e) of this  
16 section, a defendant that is an organization is, upon conviction of a  
17 violation of any of the provisions listed in this section, subject to  
18 the penalties set out in AS 12.55.035(c).

19 \* Sec. 9. AS 46.03.900 is amended by adding new paragraphs to read:

20 (36) "mining waste" means solid waste from the extraction,  
21 beneficiation and processing of ores and minerals, including coal, and  
22 including phosphate rock and overburden from the mining of uranium  
23 ore;

24 (37) "waste associated with the exploration, development, or  
25 production of crude oil, natural gas, or geothermal energy" means

26 (A) waste, including drilling mud, cuttings, hydro-  
27 carbons, brine, acid, sand, and emulsions or mixtures of fluids  
28 produced from and unique to the operation or maintenance of a  
29 well, whether naturally occurring or added for the operation or

1 productivity of the well; and

2 (B) waste that is derived intrinsically from primary  
3 field operations;

4 (38) "waste derived intrinsically from primary field op-  
5 erations" means waste produced from a well, and removed (A) at the  
6 drill site by crude oil and wastewater treatment process; or (B) at  
7 crude oil production facilities before custody transfer; "waste de-  
8 rived intrinsically from primary field operations" does not include  
9 spent solvent from equipment maintenance activities, discarded chemi-  
10 cal products, or fuel.

11 \* Sec. 10. This Act takes effect immediately in accordance with AS 01.-  
12 10.070(c).

CSSB 503 - An Act Relating to Hazardous Waste

Section Analysis

Section 1. Regulation of Hazardous Waste.

(a) This section directs the DEC to adopt regulations for the management of hazardous waste. These regulations must meet minimum EPA requirements as well as regulate those hazardous wastes that are toxic, persistent, or carcinogenic. The federal program ignores the carcinogenic and toxic effects of a waste on human health and the environment. Regulations should be developed no later than July 1, 1986 and effective on July 1, 1987.

(b) Mining waste, oil and gas production wastes are temporarily excluded in this section until federal studies on these wastes have been completed. The DEC will consider the report results in the development of regulations for these wastes.

(c) This part simply instructs the state to take actions necessary to receive EPA authorization for the hazardous waste program.

(d) The quantities of waste to be regulated are described here.

(e) This section requires the Department to conduct an education program about the regulations for those affected.

Section 2. Transportation of Hazardous Waste.

Before a hazardous waste is transported, a manifest which includes information about the type of material, disposal site, and handling procedures, must be sent to DEC. DEC then sends a copy of the manifest to local and state public safety agencies.

Section Analysis Continued

Section 3. Temporary Collection of Hazardous Waste.

This section institutionalizes in statute a very successful pilot program currently offered by DEC, known as "Hazardous Waste Clean-ups".

Temporary collection and transfer operations will be held for small quantity and household generators of hazardous waste four times a year.

Section 4. Hazardous Waste Management Facilities and Sites.

This section outlines the criteria and public comment procedures DEC should use to determine hazardous waste management sites and facilities in Alaska. Recommendations to the Governor and Legislature should be submitted not later than July 1, 1987. Final sites and facilities should be determined two years later.

Section 5 - 8. Penalties for Violations.

These sections include the technical amendments needed to satisfy federal requirements to obtain final authorization of the hazardous waste program.

Section 9. Definitions.

This section defines certain terms found in the legislation.

## CSSB 503 - An Act Relating to Hazardous Waste

### A Brief History.

In 1981, legislation (SB 29) was passed that directed the state to seek EPA authorization to administer and enforce a hazardous waste program in Alaska. The program would otherwise be managed by EPA.

Over two years later at the end of 1983, with the proposed regulations and other aspects of the authorization package nearly completed, it became apparent that the penalty sections of the current Alaska statute would have to be amended to meet EPA specifications.

Two bills SB 498 - Rules by Request of the Governor and SB 503 Resources were introduced at the beginning of the session to meet this obligation. The Governor's legislation provided the amendments to the penalty sections only, and as such was an endorsement of the hazardous waste regulation developed by the Department of Environmental Conservation. In its proposed regulations, DEC was attempting to develop a hazardous waste management program that made sense for Alaska and did not simply mimic the federal approach. SB 503 also included similar language regarding changes to the penalty codes, but limited the development of the state hazardous waste program to be the same as the federal program.

These two bills represented divergent and contradictory approaches. All interested agreed that the state should take over the management of the hazardous waste program. However, there was disagreement as to how this should be accomplished.

## CSSB 503 Hazardous Waste Legislation, History

In addition, two other bills relating to hazardous waste were introduced at the start of this session. These are SB 450 - Vic Fischer regarding the disposal of hazardous waste, and SB 486 - Josephson providing the public the right to know about the storage and disposal of hazardous materials and wastes.

All four items were referred to Senate Resources Committee, which combined them into one mega-workdraft in the form of a committee substitute for SB 503. The workdraft was sent to over 30 groups and individuals to seek their comments including business, labor, environmental, health, resource development, government, and civic interests. After this review was complete, the Resources Committee then convened a meeting on April 9, 1984 of these same interested parties to hammer out compromise legislation.

After a full day of intense negotiation, agreement was reached by all the work group participants. Alaska Oil and Gas Association, Associated General Contractors, environmentalists, Alaska District Council of Laborers, Municipality of Anchorage, and various legislative and state government offices were represented. The result is the committee substitute for SB 503 before this committee.

TESTIMONY OF CHRIS NOAH  
DEPUTY COMMISSIONER OF THE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Before the Senate Resources Committee  
Alaska State Legislature  
Regarding: CS for SB 503

April 17, 1984

Madam Chairman, other members of the committee, my name is Chris Noah, Deputy Commissioner of the Department of Environmental Conservation. I am here to testify on the committee substitute for Senate Bill 503, entitled: "An act relating to hazardous waste; changing penalties for environmental pollution violations; and providing for an effective date."

I am here primarily to endorse this bill and urge its passage in its present form. The bill is the result of negotiations and compromise on the part of various organizations and persons concerned with the manner by which waste is classified as hazardous and managed in this state. It also incorporates the essential statutory changes contained in SB 498 which had been introduced by the Governor. The changes contained in SB 498 were based on the determination by the United States Environmental Protection Agency that certain statutory changes were necessary before the state could obtain final authorization from EPA to carry out its responsibilities under the Resource Conservation and Recovery Act of 1976. With regard to these statutory changes, we have been advised by the Attorney General's Office that the present bill (CS for SB 503) does indeed include the changes required by EPA. Specifically, these are the changes to both the criminal and civil penalties contained in Sections 5, 6 and 7 of the present bill.

It is the other parts of the bill which were the subject of discussion and compromise by various persons and organizations. In particular, it is the result of an agreement reached at an informal meeting on Monday, April 9, 1984. This administration participated in these discussions and is in accord with the agreement which is now before you in the form of this bill. The bill is one which I believe all parties can live with. Further, and most importantly, it is one which will result in a hazardous waste management program which is both effective and reasonable. However, I should state and point out that the new duties which the bill would impose on the department cannot be fulfilled without adequate funding. It is my hope, therefore, that the agency operating budget and companion appropriation to this bill will also be approved by the legislature.

Thank you for this opportunity.

CN/DD/af

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

*Handwritten notes:*  
2000  
2001

Revision Date: April 13, 1984

REQUEST  
Bill/Resolution No.: CSSB 503  
Title: Hazardous Waste...

FISCAL DETAIL  
Agency Affected: Environmental Conservation  
Program Category Affected: NRMEC

Sponsor: Senate Resources  
Requestor: Sen. Fahrenkamp & Fischer  
Date of Request: April 12, 1984

BRU, Program or Subprogram(s) Affected:  
Environmental Quality Management  
Air & Solid Waste Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING		6-months				
100 PERSONAL SERVICES		65.9	131.7	131.7		
200 TRAVEL		16.0	16.0	16.0		
300 CONTRACTUAL		8.4	16.8	16.8		
400 SUPPLIES		2.0	4.0	4.0		
500 EQUIPMENT		13.6	3.2	3.2		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		105.9	171.7	171.7		
CAPITAL		480.0	--	--		
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		585.9	171.7	171.7		
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3.0	3.0	3.0		
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Stanley W. Hungerford  
Division: Environmental Quality

Phone: 465-2666  
Date: April 13, 1984

Approved by Commissioner: [Signature]  
Agency: Environmental Conservation

Date: \_\_\_\_\_

Deputy Commissioner

Distribution (by Agency preparing fiscal note):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

12/1/83

ANALYSIS of FISCAL NOTE  
CSSB 503 AMENDED  
April 13, 1984

- A. Details of the costs for recommending the site and type of state owned/sponsored hazardous waste management facility.

Assumptions:

- a) The project will take six to seven years to complete through contracts managed by the Department of Environmental Conservation.
- b) In the first year, develop the specific details of siting criteria, the appropriate types of facilities to be evaluated based on industries regulated and types of waste, and five or more general areas for evaluation.
- In the second and third years, identify five potential sites, the type(s) of facility to be located at each, and begin physical evaluations of the sites. (75.0 each year)
- c) In the next three to four years, conduct detailed evaluations of the five sites, including such parameters as meteorology, geology, hydrology, access, and socioeconomic factors. The cost could range from 500.0 to 2 million per site - an average of 1.25 million is estimated to justify each site to the public. Excess funds would be reserved for the design of the facility after approval of the site by the governor and legislature. (To be included in a fiscal note in 1986 audit cycle.)
- d) In the sixth/seventh year conduct the public review of at least two sites. (50.0)
- e) Prepare recommendation for the governor and legislature.
- f) No inflation of costs or salaries.

Staffing Needs:

1	Environmental Engineer	(Range 19)	50.0 plus support costs
1	Administrative Assistant	(Range 12)	31.7 plus support costs

- B. Details of the costs for a collection and transportation service for disposal of hazardous wastes from small quantity generators and households.

Assumptions:

- a) The project will be for at least three and one half years.
- b) There will be "cleanups" in four or more cities per year. (85.0 per year)
- c) No inflation of transportation or disposal costs.

- d) An aggressive program of technical assistance to the small quantity generator to assure conformance to RCRA (Applicable Federal Hazardous Waste regulations)
- e) A comprehensive public information campaign each year to maximize legal collection and disposal of hazardous wastes.
- f) Analysis of the types, quantities and sources of hazardous wastes to provide information for the state hazardous waste facility siting project.
- g) Site for the collection activity and security will be provided by local government.

Staffing needs:

1 Environmental Engineer III (Range 19) 50.0 plus support costs

C. Details of the estimated support costs for four positions.

Travel Costs:	<u>1st year</u>	<u>2nd &amp; 3rd years</u>
Moving costs -- of the 2 Environmental Engineer IIIs: the department has found that the specialized expertise required cannot be found in Alaska.	12.0	--
Travel in support of project work (technical assistance and public information)	3.0	12.0
Travel to meet with contractors, local governments, public meetings	1.0	4.0
 Contractual Costs:		
Office costs (5.6 per person -- telephone, xerox, janitor)	8.4	16.8
 Supplies:		
Replace expendable laboratory, safety materials	--	2.0
Office	2.0	2.0
 Equipment:		
Office equipment (desks, chairs, word processor)	5.1	--
Safety equipment and replacements	8.5	3.2

# MEMORANDUM

State of Alaska

DEPARTMENT OF ENVIRONMENTAL QUALITY

TO: Nancy Lord  
Legislative Aid to  
Senator Vic Fischer

DATE: May 4, 1984

FILE NO:

TELEPHONE NO: 465-2666

FROM: Stanley W. Hungerford  
Supervisor  
Air & Solid Waste Section

SUBJECT:

As you requested, the following is a more detailed description of the contractual activities necessary during FY 85 and FY 86 to accomplish this intent of proposed Sec. 46.03.313 of CSSB 503 up to the point of actually determining the environmental impacts and public acceptance of proposed sites as required by Sec. 46.03.313(d) of one or more sites and making the recommendation required by Sec. 46.03.314. The activities listed will not necessarily each require separate contracts or contractors.

- Project 1. Inventory the types, amounts and location of hazardous waste generated in Alaska as regulated by proposed state regulations. \$10,000
- Project 2. Determine the type(s) and capacity(ies) of hazardous waste management facilities needed to provide an economic means for managing wastes including transportation, storage, chemical treatment, recycling and disposal facilities with particular emphasis on encouraging alternatives to land disposal. \$35,000
- Project 3. Develop regulations required by AS 46.03.313(b)(2) interpreting and clarifying siting criteria and establishing the public process for determining approvability of a site. \$45,000
- Project 4. Determine five or more areas which are suitable for the types of facilities proposed in project 2. \$50,000
- Project 5. Based on the criteria developed in project 1, determine the suitability of three or more specific sites for facilities. \$75,000

Nancy Lord

2

May 4, 1984

Project 6. Identify alternative models of industrial and governmental financing for the proposed facilities and incentives/inducements to encourage community acceptance of a facility.

\$10,000

\$225,000

SWH/ne

cc: Chris Noah  
Keith Kelton  
Jim Palmer  
Paula Scavera  
Billie Trent  
David DiTraglia  
Denise Olmstead

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: April 13, 1984

REQUEST  
Bill/Resolution No.: CSSB 503  
Title: Hazardous Waste...

FISCAL DETAIL  
Agency Affected: Environmental Conservation  
Program Category Affected: NRMEC

Sponsor: Senate Resources  
Requestor: Sen. Fahrenkamp & Fischer  
Date of Request: April 12, 1984

BRU, Program or Subprogram(s) Affected:  
Environmental Quality Management  
Air & Solid Waste Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING		6-months				
100 PERSONAL SERVICES		65.9	131.7	131.7		
200 TRAVEL		16.0	16.0	16.0		
300 CONTRACTUAL		8.4	16.8	16.8		
400 SUPPLIES		2.0	4.0	4.0		
500 EQUIPMENT		13.6	3.2	3.2		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		105.9	171.7	171.7		
CAPITAL		480.0	--	--		
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		585.9	171.7	171.7		
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3.0	3.0	3.0		
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Stanley W. Hungerford  
Division: Environmental Quality  
Phone: 465-2666  
Date: April 13, 1984

Approved by Commissioner: *[Signature]*  
Agency: Environmental Conservation  
Date: \_\_\_\_\_

Deputy Commissioner

Distribution (by Agency preparing fiscal note):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

12/1/83

ANALYSIS of FISCAL NOTE  
CSSB 503 AMENDED  
April 13, 1984

- A. Details of the costs for recommending the site and type of state owned/sponsored hazardous waste management facility.

Assumptions:

- a) The project will take six to seven years to complete through contracts managed by the Department of Environmental Conservation.
- b) In the first year, develop the specific details of siting criteria, the appropriate types of facilities to be evaluated based on industries regulated and types of waste, and five or more general areas for evaluation.

In the second and third years, identify five potential sites, the type(s) of facility to be located at each, and begin physical evaluations of the sites. (75.0 each year)

- c) In the next three to four years, conduct detailed evaluations of the five sites, including such parameters as meteorology, geology, hydrology, access, and socioeconomic factors. The cost could range from 500.0 to 2 million per site - an average of 1.25 million is estimated to justify each site to the public. Excess funds would be reserved for the design of the facility after approval of the site by the governor and legislature. (To be included in a fiscal note in 1986 audit cycle.)
- d) In the sixth/seventh year conduct the public review of at least two sites. (50.0)
- e) Prepare recommendation for the governor and legislature.
- f) No inflation of costs or salaries.

Staffing Needs:

1	Environmental Engineer	(Range 19)	50.0 plus support costs
1	Administrative Assistant	(Range 12)	31.7 plus support costs

- B. Details of the costs for a collection and transportation service for disposal of hazardous wastes from small quantity generators and households.

Assumptions:

- a) The project will be for at least three and one half years.
- b) There will be "cleanups" in four or more cities per year. (85.0 per year)
- c) No inflation of transportation or disposal costs.

- d) An aggressive program of technical assistance to the small quantity generator to assure conformance to RCRA (Applicable Federal Hazardous Waste regulations)
- e) A comprehensive public information campaign each year to maximize legal collection and disposal of hazardous wastes.
- f) Analysis of the types, quantities and sources of hazardous wastes to provide information for the state hazardous waste facility siting project.
- g) Site for the collection activity and security will be provided by local government.

Staffing needs:

1 Environmental Engineer III (Range 19) 50.0 plus support costs

C. Details of the estimated support costs for four positions.

Travel Costs:	<u>1st year</u>	<u>2nd &amp; 3rd years</u>
Moving costs -- of the 2 Environmental Engineer IIIs: the department has found that the specialized expertise required cannot be found in Alaska.	12.0	--
Travel in support of project work (technical assistance and public information)	3.0	12.0
Travel to meet with contractors, local governments, public meetings	1.0	4.0
 Contractual Costs:		
Office costs (5.6 per person -- telephone, xerox, janitor)	8.4	16.8
 Supplies:		
Replace expendable laboratory, safety materials	--	2.0
Office	2.0	2.0
 Equipment:		
Office equipment (desks, chairs, word processor)	5.1	--
Safety equipment and replacements	8.5	3.2

# MEMORANDUM

State of Alaska

DEPARTMENT OF ENVIRONMENTAL QUALITY

TO: Nancy Lord  
Legislative Aid to  
Senator Vic Fischer

DATE: May 4, 1984

FILE NO:

TELEPHONE NO: 465-2666

FROM: Stanley W. Hungerford  
Supervisor  
Air & Solid Waste Section

SUBJECT:

As you requested, the following is a more detailed description of the contractual activities necessary during FY 85 and FY 86 to accomplish this intent of proposed Sec. 46.03.313 of CSSB 503 up to the point of actually determining the environmental impacts and public acceptance of proposed sites as required by Sec. 46.03.313(d) of one or more sites and making the recommendation required by Sec. 46.03.314. The activities listed will not necessarily each require separate contracts or contractors.

- Project 1. Inventory the types, amounts and location of hazardous waste generated in Alaska as regulated by proposed state regulations. \$10,000
- Project 2. Determine the type(s) and capacity(ies) of hazardous waste management facilities needed to provide an economic means for managing wastes including transportation, storage, chemical treatment, recycling and disposal facilities with particular emphasis on encouraging alternatives to land disposal. \$35,000
- Project 3. Develop regulations required by AS 46.03.313(b)(2) interpreting and clarifying siting criteria and establishing the public process for determining approvability of a site. \$45,000
- Project 4. Determine five or more areas which are suitable for the types of facilities proposed in project 2. \$50,000
- Project 5. Based on the criteria developed in project 1, determine the suitability of three or more specific sites for facilities. \$75,000

Project 6. Identify alternative models of industrial and governmental financing for the proposed facilities and incentives/inducements to encourage community acceptance of a facility.

\$10,000

\$225,000

SWH/ne

cc: Chris Noah  
Keith Kelton  
Jim Palmer  
Paula Scavera  
Billie Trent  
David DiTraglia  
Denise Olmstead

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date 4/18, 1984

REQUEST  
 Bill/Resolution No.: SB 503  
 Title: Hazardous Wastes  
 \_\_\_\_\_  
 Sponsor: Resource Committee  
 Requestor: Senate Resources  
 Date of Request: 4/17/84

II. FISCAL DETAIL  
 Agency Affected: Health & Social Servs.  
 Program Category Affected: Public Health  
 \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected:  
Public Health Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for Analysis

Prepared By: Dean Tirador, M.D. ACC  
Phone: 465-3090  
 Division: Public Health Date: 4/18/84  
 Approved by Commissioner: Robert London Smith, Ph.D. Date: 4/18/84  
 Agency: DHSS

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date 4/18, 1984

REQUEST

Bill/Resolution No.: SB 503  
Title: Hazardous Wastes

Sponsor: Resource Committee  
Requestor: Senate Resources  
Date of Request: 4/17/84

II. FISCAL DETAIL

Agency Affected: Health & Social Servs.  
Program Category Affected: Public Health

BRU, Program of Subprogram(s) Affected:  
Public Health Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for Analysis

Prepared By: Dean Tirador, M.D.  
Division: Public Health

*ACC*  
Phone: 465-3090  
Date: 4/18/84

Approved by Commissioner: Robert London Smith, M.D.  
Agency: DHSS

Date: 4/18/84

Distribution (by Agency preparing fiscal note):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

12/1/83

COMMITTEE REPORT  
SENATE RULES COMMITTEE

5/7/84

Date 5/9/84

Mr. President:

The Committee on Rules has had SB 503

hazardous waste.

under consideration and recommends it be placed ~~on the~~ *given a*  
*further referral to the Finance Committee* ~~calendar~~

- ( ) with attached amendment(s).  
( ) replace with CS for \_\_\_\_\_ ( ) same title  
( ) and attaches a "Letter of Intent" ( ) new title  
( ) new fiscal note

MEMBERS SIGNING FOR PLACEMENT  
ON THE CALENDAR

Bill Ray  
Kelly  
Jerguson  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING OTHER  
RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Jan Fike  
CHAIRMAN

# COMMITTEE REPORT

## SENATE

FURTHER: *Pulse*

4/24/84

Date May 4, 1984

Mr. President

The Committee on JUDICIARY considered SB 503

hazardous waste.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/~~or adopt~~ CS for SB503(jud)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

1 Joe Josephson

2 Zeller - N/R  
2 Rollins - no rec  
2 Johnson - no rec

1 Bill Ray  
Chairman

NO PASS  
Chairman recommendation

# COMMITTEE REPORT

## SENATE

FURTHER:

JUDICIARY

2/14/84

*Read April 24*  
Date 4-19-84

Mr. President

The Committee on RESOURCES considered SB 503  
hazardous waste.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/~~or adopt~~ CS for SB 503 (Res)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*Artis Stungler*  
*Mike Lissin*  
*Ziegler*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

*Bob Muelent, N/K*  
*Paul Fink, NR*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Dittore Fahrenkamp*  
Chairman

*do pass*  
Chairman recommendation

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3835

## Senate Committee on Resources

### SENATE RESOURCES COMMITTEE LETTER OF INTENT FOR CSSB 503 (Resources)

It is the intent of the Legislature that the Department of Environmental Conservation obtain from the United States Environmental Protection Agency authorization to administer and enforce a hazardous waste program in Alaska. The Department should focus its efforts so that the state's final application for full management control be complete by July 1, 1986.

To this end and with respect to the mandate to be codified at AS 46.03.299 (a)(2), the Department is instructed to adopt regulations relating to the management of hazardous waste that exhibit the characteristics of toxicity, persistence, or carcinogenicity and other characteristics of hazardous waste as identified by EPA. The department shall evaluate the most appropriate mechanism by which to identify a waste characteristic of toxicity, persistence or carcinogenicity and other characteristic as identified as hazardous by EPA. This evaluation must include the methods described in the proposed state regulations dated October 26, 1983 that identify hazardous wastes by the characteristics mentioned above. Regulations developed under AS 46.299(a)(2) must incorporate the results of this analysis.

The regulations ultimately adopted by the state are to take effect three years from this bill's enactment, July 1, 1987. The department is to develop and implement a program to educate those effected by this legislation about the requirements of this act during the third year.

In order to gain experience managing a hazardous waste program, the department should assume through cooperative agreement with EPA as much active control as feasible of the currently operating hazardous waste program. The assumption of these duties by the department should begin immediately.

The exemptions for mining waste and waste associated with oil and gas production as defined should be effective until the completion of the studies indicated in the legislation. After each study has been completed and the findings of these studies and proposed federal regulations have been considered by the department, the department may terminate the exemption or promulgate amendments to the state's hazardous waste regulations.

Offered: 5/7/84  
Referred: Rules

Original sponsor: Resources Committee

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 503 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to hazardous waste; changing pen-  
7 alties for environmental pollution violations; and  
8 providing for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. AS 46.03.299 is repealed and reenacted to read:  
11 Sec. 46.03.299. REGULATION OF HAZARDOUS WASTE. (a) The depart-  
12 ment shall develop regulations for the identification and managemenc  
13 of hazardous waste as defined by the Environmental Protection Agency  
14 and hazardous waste that exhibits the characteristic of toxicity,  
15 persistence, or carcinogenicity. The department shall adopt these  
16 regulations not later than July 1, 1986, in accordance with the Admin-  
17 istrative Procedure Act (AS 44.62). These regulations shall take  
18 effect July 1, 1987.  
19 (b) Regulations adopted under (a) of this section shall exempt  
20 from their coverage mining waste and waste associated with the explo-  
21 ration, development, or production of crude oil, natural gas, or  
22 geoth rmal energy until studies required under 42 U.S.C. 6982(f) and  
23 (m) are completed. The department, after considering the findings in  
24 the reports of these studies, may terminate or amend the exemptions.  
25 (c) The department shall take all actions necessary to receive  
26 authorization from the administrator of the Environmental Protection  
27 Agency to administer and enforce a hazardous waste program in accor-  
28 dance with 42 U.S.C. 6901 - 6987 (Resource Conservation and Recovery  
29 Act of 1976).

1 (d) Regulations adopted under (a) of this section shall cover  
2 (1) hazardous waste, not otherwise exempted by law, that is generated  
3 in any month by a single generator in an amount of 220 pounds or more,  
4 and (2) acute hazardous wastes identified in 40 C.F.R. 261.33(e), not  
5 otherwise exempted by law, that are generated in any month by a single  
6 generator in an amount of 2.2 pounds or more. The department shall  
7 extend the regulations to manage smaller quantities of hazardous waste  
8 if the quantities specified in this subsection exceed the quantities  
9 regulated under the authority of 42 U.S.C. 6921 - 6934, as amended.  
10 The department may at any time extend coverage of regulations adopted  
11 under (a) of this section to small quantities of hazardous waste and  
12 acute hazardous waste.

13 (e) During the period July 1, 1986 through June 30, 1987 the  
14 department shall conduct a program to inform persons of their re-  
15 sponsibilities under regulations adopted under (a) of this section.

16 \* Sec. 2. AS 46.03.308 is repealed and reenacted to read:

17 Sec. 46.03.308. TRANSPORTATION OF HAZARDOUS WASTE. (a) Hazard-  
18 ous waste may not be transported in the state unless the waste is  
19 accompanied by a manifest and the generator has delivered a copy of  
20 the manifest to the department before the transportation begins.

21 (b) The department shall send a copy of each manifest received  
22 under (a) of this section to

23 (1) the state and local public safety agencies with juris-  
24 diction over areas covered by a hazardous waste transportation route;  
25 and

26 (2) the highest elected local official representing each  
27 area covered by a hazardous waste transportation route.

28 \* Sec. 3. AS 46.03 is amended by adding a new section to read:

29 Sec. 46.03.309. TEMPORARY COLLECTION OF HAZARDOUS WASTE. The

1 department shall provide for the temporary collection of hazardous  
2 waste to be prepared for shipment to a federally approved hazardous  
3 waste disposal site. The department shall establish four periods in  
4 each calendar year during which it shall collect hazardous waste. A  
5 collection point may accept hazardous waste only from small quantity  
6 generators and household generators as defined by the Environmental  
7 Protection Agency.

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

9 Sec. 46.03.313. HAZARDOUS WASTE MANAGEMENT FACILITIES AND SITES.

10 (a) The department shall evaluate and select potential sites for  
11 hazardous waste management facilities in the state. In evaluating and  
12 selecting sites for management facilities, the department shall con-  
13 sider at least the following factors:

14 (1) economic feasibility, including proximity to concen-  
15 trations of generators of the types of hazardous waste likely to be  
16 proposed and permitted for management;

17 (2) intrinsic suitability of the sites;

18 (3) federal and state pollution control and environmental  
19 protection regulations;

20 (4) the risk and effect for local residents, units of  
21 government, and the local public health, safety, and welfare, includ-  
22 ing such dangers as an accidental release of waste during transporta-  
23 tion to a facility or at a facility, water, air, and land pollution,  
24 and fire or explosion;

25 (5) the consistency of a facility with, and its effect on,  
26 existing and planned local land use and development; local laws,  
27 ordinances, and permits; and local public facilities and services; and

28 (6) the adverse effects of a facility at the site on agri-  
29 culture and natural resources and opportunities to mitigate or

1 eliminate the adverse effects by stipulations, conditions, and re-  
2 quirements relating to the design and operation of a management facil-  
3 ity at the proposed site.

4 (b) By July 1, 1986, the department shall adopt regulations that

5 (1) interpret and clarify the factors listed in (a) of this  
6 section; and

7 (2) establish procedures for processing, reviewing, and  
8 approving or disapproving applications for the siting and operation of  
9 privately owned hazardous waste management facilities.

10 (c) The department may authorize the siting and operation of  
11 privately owned hazardous waste management facilities in accordance  
12 with factors and requirements established under this section.

13 (d) The department shall hold public hearings in each election  
14 district in which a hazardous waste management facility site is pro-  
15 posed to be located. The department shall give reasonable public  
16 notice of the time, date, and place of each public hearing at least 30  
17 days before the hearing. The public shall be afforded an opportunity  
18 at each hearing to submit written and oral testimony concerning a  
19 potential site. The department shall consider the testimony submitted  
20 at public hearings when it prepares reports under AS 46.03.314.

21 (e) For purposes of this section, "intrinsic suitability" of a  
22 site means that, based on existing data on the inherent and natural  
23 attributes, physical features, and location of the site, there is no  
24 known reason why a waste management facility that may be located in  
25 the site could not reasonably be expected to qualify for a permit  
26 under AS 46.03.302.

27 Sec. 46.03.314. REPORTS ON MANAGEMENT SITES AND FACILITIES. (a)  
28 Not later than July 1, 1987, the department shall submit to the gover-  
29 nor and the legislature a preliminary report that includes

1 (1) proposals for the siting of hazardous waste management  
2 facilities in the state;

3 (2) proposals for the methods of financing and operating  
4 the facilities;

5 (3) proposals for the types of facilities that should be  
6 constructed, such as chemical processing facilities, incineration  
7 facilities, and transfer and storage facilities; and

8 (4) information about private hazardous waste management  
9 sites and facilities approved by the department.

10 (b) Not later than July 1, 1989, the department shall submit to  
11 the governor and the legislature a final report that includes

12 (1) identification of sites selected by the department for  
13 hazardous waste management facilities;

14 (2) recommendations for the methods of financing and oper-  
15 ating facilities at the sites listed in (1) of this subsection;

16 (3) recommendations for the types of facilities that should  
17 be constructed at sites listed in (1) of this subsection; and

18 (4) information about private hazardous waste management  
19 sites and facilities approved by the department.

20 \* Sec. 5. AS 46.03.760(a) is amended to read:

21 (a) A person who violates or causes or permits to be violated a  
22 provision of this chapter other than AS 46.03.250 - 46.03.314, or a  
23 provision of [OR] AS 46.04, or a regulation, a lawful order of the  
24 department, or a permit, approval, or acceptance, or term or condition  
25 of a permit, approval, or acceptance issued under this chapter or  
26 AS 46.04 is liable, in a civil action, to the state for a sum to be  
27 assessed by the court of not less than \$500 nor more than \$100,000 for  
28 the initial violation, nor more than \$5,000 for each day after that  
29 [THEREAFTER] on which the violation continues, and that [WHICH] shall

1 reflect, when applicable,

2 (1) reasonable compensation in the nature of liquidated  
3 damages for any adverse environmental effects caused by the violation,  
4 that [WHICH] shall be determined by the court according to the toxi-  
5 city, degradability and dispersal characteristics of the substance  
6 discharged, the sensitivity of the receiving environment, and the  
7 degree to which the discharge degrades existing environmental quality;

8 (2) reasonable costs incurred by the state in detection,  
9 investigation, and attempted correction of the violation; [AND]

10 (3) the economic savings realized by the person in not  
11 complying with the requirement for which a violation is charged.

12 \* Sec. 6. AS 46.03.760(b) is amended to read:

13 (b) Except as determined by the court under (f)(4) of this  
14 section, actions [ACTIONS] under this section may not be used for  
15 punitive purposes, and sums assessed by the court must be compensatory  
16 and remedial in nature.

17 \* Sec. 7. AS 46.03.760 is amended by adding a new subsection to read:

18 (f) A person who violates or causes or permits to be violated a  
19 provision of AS 46.03.250 - 46.03.314, or a regulation, a lawful order  
20 of the department, or a permit, approval, or acceptance, or term or  
21 condition of a permit, approval, or acceptance issued under AS 46.-  
22 03.250 - 46.03.314 is liable, in a civil action, to the state for a  
23 sum to be assessed by the court of not less than \$500 nor more than  
24 \$100,000 for the initial violation, nor more than \$10,000 for each day  
25 after that on which the violation continues, and that shall reflect,  
26 when applicable,

27 (1) reasonable compensation in the nature of liquidated  
28 damages for any adverse environmental effects caused by the violation,  
29 that shall be determined by the court according to the toxicity,

1 degradability and dispersal characteristics of the substance dis-  
2 charged, the sensitivity of the receiving environment, and the degree  
3 to which the discharge degrades existing environmental quality;

4 (2) reasonable costs incurred by the state in detection,  
5 investigation, and attempted correction of the violation;

6 (3) the economic savings realized by the person in not  
7 complying with the requirement for which a violation is charged; and

8 (4) the need for an enhanced civil penalty to deter future  
9 noncompliance.

10 \* Sec. 8. AS 46.03.790 is amended to read:

11 Sec. 46.03.790. CRIMINAL PENALTIES. (a) Except as provided in  
12 (d) - (f) of this section, a [A] person who negligently violates [OR  
13 WHO CAUSES OR PERMITS A VIOLATION OF] a provision of this chapter or  
14 AS 46.04, or of a regulation, lawful order of the department, or  
15 permit, approval, or acceptance, or term or condition of a permit,  
16 approval, or acceptance issued under this chapter or AS 46.04 is  
17 guilty of a class B misdemeanor.

18 (b) Except as provided in (d) - (f) of this section, a [A]  
19 person who knowingly [WILFULLY] violates a provision of this chapter  
20 or AS 46.04, or of a regulation, lawful order of the department, or  
21 permit, approval, or acceptance, or term or condition of a permit,  
22 approval, or acceptance issued under this chapter or AS 46.04 is  
23 guilty of a class A misdemeanor.

24 (c) Each day on which a violation described in [(a) OR (b) OF]  
25 this section occurs is considered a separate violation.

26 (d) Notwithstanding (a) and (b) of this section, a [A] person  
27 who fails to provide or falsely states information required under  
28 AS 46.03.755 or AS 46.04 is guilty of a misdemeanor and, upon convic-  
29 tion, is punishable by a fine of not more than \$25,000, or by

1 imprisonment for not more than one year, or by both. Each unlawful  
2 act constitutes a separate offense.

3 (e) Notwithstanding (a) and (b) of this section, a person who  
4 knowingly (1) transports any hazardous waste to a facility without a  
5 permit required under AS 46.03.250 - 46.03.314; (2) treats, stores, or  
6 disposes of hazardous waste without a permit required under AS 46.-  
7 03.250 - 46.03.314; or (3) makes a false statement or representation  
8 in an application, label, manifest, record, report, permit, or other  
9 document filed, maintained, or used for purposes of compliance with  
10 the hazardous waste provisions of AS 46.03.250 - 46.03.314 or regu-  
11 lations adopted under those provisions, is punishable by a fine of not  
12 more than \$10,000 per day or by imprisonment for not more than one  
13 year, or both.

14 (f) Notwithstanding the penalty provisions of (a) - (e) of this  
15 section, a defendant that is an organization is, upon conviction of a  
16 violation of any of the provisions listed in this section, subject to  
17 the penalties set out in AS 12.57.035(c).

18 \* Sec. 9. AS 46.03.900 is amended by adding new paragraphs to read:

19 (36) "mining waste" means solid waste from the extraction,  
20 beneficiation and processing of ores and minerals, including coal, and  
21 including phosphate rock and overburden from the mining of uranium  
22 ore;

23 (37) "waste associated with the exploration, development, or  
24 production of crude oil, natural gas, or geothermal energy" means (A)  
25 waste, including drilling muds, cuttings, hydrocarbons, brine, acid,  
26 sand, and emulsions or mixtures of fluids produced from and unique to  
27 the operation or maintenance of a well, whether naturally occurring or  
28 added for the operation or productivity of the well; and (B) waste  
29 that is derived intrinsically from primary field operations; "waste

1 associated with the exploration, development, or production of crude  
2 oil, natural gas, or geothermal energy" does not include spent sol-  
3 vents and oils from equipment maintenance activities, discarded chemi-  
4 cal products, or fuels;

5 (38) "waste derived intrinsically from primary field op-  
6 erations" means waste produced from a well, and removed (A) at the  
7 drill site; or (B) at crude oil production facilities by crude oil or  
8 wastewater treatment process before custody transfer of the crude oil.

9 \* Sec. 10. This Act takes effect immediately in accordance with AS 01.-  
10 10.070(c).

Introduced: 2/14/84  
Referred: Resources and  
Judiciary

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

SENATE BILL NO. 503

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to hazardous wastes."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 46.03.100(c) is amended to read:

9 (c) A permit for disposal of a hazardous waste may not be issued  
10 under this section unless the applicant for the permit satisfies those  
11 department regulations that are consistent with and equivalent to  
12 regulations of the Environmental Protection Agency adopted under  
13 42 U.S.C. 6924 - 6925 and has furnished proof to the commissioner of  
14 financial ability to control the hazardous waste. [PROOF OF FINANCIAL  
15 RESPONSIBILITY MAY BE DEMONSTRATED BY SELF-INSURANCE, INSURANCE,  
16 SURETY, OR GUARANTEE, UNDER REGULATIONS ISSUED BY THE DEPARTMENT.  
17 ACCEPTANCE OF PROOF OF FINANCIAL RESPONSIBILITY UNDER THIS SUBSECTION  
18 EXPIRES

19 (1) ONE YEAR FROM ITS ISSUANCE FOR SELF-INSURANCE;

20 (2) ON THE EFFECTIVE DATE OF A CHANGE IN THE SURETY BOND,  
21 GUARANTEE, OR INSURANCE AGREEMENT: OR

22 (3) ON THE EXPIRATION OR CANCELLATION OF THE SURETY BOND,  
23 GUARANTEE, OR INSURANCE AGREEMENT.]

24 \* Sec. 2. AS 46.03.250 is amended to read:

25 Sec. 46.03.250. AUTHORITY. (a) The department shall adopt  
26 regulations

27 (1) establishing standards governing the discharge of low  
28 level radioactive materials to the air, water, land, and subsurface  
29 land of the state;

1 (2) establishing safeguards for radioactive waste materials  
2 that do not constitute a threat to public health or safety and that  
3 may be stored or disposed of in the state; and

4 (3) establishing procedures for the storage and disposal of  
5 radioactive materials used in medicine, education, instruments, indus-  
6 trial testing, or scientific research; and

7 (4) required by regulations adopted by the Environmental  
8 Protection Agency under 42 U.S.C. 6926 for approval of a state  
9 hazardous waste management program.

10 (b) The department has exclusive jurisdiction to adopt and  
11 enforce regulations for the control of hazardous wastes in the state.

12 \* Sec. 3. AS 46.03.296(b) is amended to read:

13 (b) The department shall adopt regulations in accordance with  
14 the Administrative Procedure Act (AS 44.62) for the treatment, stor-  
15 age, transportation, and disposal of hazardous wastes to ensure the  
16 protection of human health, livestock, wildlife, property, and the  
17 environment.

18 \* Sec. 4. AS 46.03.299 is repealed and reenacted to read:

19 Sec. 46.03.299. CONTROL OF HAZARDOUS WASTES. (a) The depart-  
20 ment shall facilitate coordination with federal, state, and local  
21 agencies in adopting regulations under the Administrative Procedure  
22 Act (AS 44.62) for a comprehensive state hazardous waste program  
23 consistent with 42 U.S.C. 6901 - 6987 and regulations adopted under  
24 those sections by the Environmental Protection Agency.

25 (b) The department shall

26 (1) identify the characteristics of hazardous wastes, as  
27 identified in regulations of the Environmental Protection Agency  
28 adopted under 42 U.S.C. 6921(b);

29 (2) establish

- 1 (A) criteria for listing hazardous wastes;
- 2 (B) requirements for hazardous waste that is used,  
3 re-used, recycled, or reclaimed; and
- 4 (C) exclusions;
- 5 (3) adopt as a preliminary list the lists of hazardous  
6 wastes identified by the Environmental Protection Agency in regulations  
7 adopted under 42 U.S.C. 6921(b);
- 8 (4) identify the sources of hazardous wastes listed under  
9 (3) of this subsection or enumerated under (c) of this section;
- 10 (5) qualify the department to receive authorization from  
11 the administrator of the Environmental Protection Agency to administer  
12 and enforce a hazardous waste program in accordance with 42 U.S.C.  
13 6901 - 6987;
- 14 (6) determine the amount of a hazardous waste that is so  
15 small as to not present a hazard to public health, livestock, fish,  
16 wildlife, and the environment of the state when disposed of;
- 17 (7) adopt preliminary requirements for hazardous waste  
18 produced by small quantity generators as specified under 42 U.S.C.  
19 6921 - 6922;
- 20 (8) adopt, in accordance with 42 U.S.C. 6924,
- 21 (A) criteria for identifying appropriate hazardous  
22 waste disposal site locations;
- 23 (B) procedures by which the public shall have oppor-  
24 tunity to
- 25 (i) participate in hazardous waste disposal site  
26 locations; and
- 27 (ii) review and comment on issuance of hazardous  
28 waste disposal permits by the department.
- 29 (c) Two years after the date on which the Environmental

1 Protection Agency approves the state hazardous waste program, the  
2 department may

3 (1) develop new regulations for small quantity generators  
4 if the Environmental Protection Agency fails to revise 40 C.F.R.  
5 261.5, dated April 1, 1983; and

6 (2) enumerate specific hazardous wastes, within the meaning  
7 of AS 46.03.900(32), subject to the provisions of AS 46.03.302 and  
8 46.03.305; however, the department may not list as hazardous a waste  
9 that has not been listed as a hazardous waste by the United States  
10 Environmental Protection Agency under 42 U.S.C. 6921, unless the  
11 commissioner first determines that the waste is hazardous as defined  
12 in this chapter.

13 \* Sec. 5. AS 46.03.311(b) is amended to read:

14 (b) Information that is confidential may be transmitted under a  
15 continuing restriction of confidentiality to other officers, employ-  
16 ees, or authorized representatives of the state or of the United  
17 States if

18 (1) the person responsible for furnishing the record,  
19 report, permit, application, or information to which such information  
20 pertains is informed at least two weeks before the transmittal, except  
21 that information obtained under AS 46.03.296 - 46.03.311 shall be made  
22 available under a claim of confidentiality to the Environmental Pro-  
23 tection Agency upon request of the agency; and

24 (2) the information has been acquired by the department  
25 under the provisions of AS 46.03.296 - 46.03.311.

26 \* Sec. 6. AS 46.03 is amended by adding new sections to read:

27 Sec. 46.03.312. CIVIL REMEDIES AND PENALTIES. (a) In the  
28 enforcement of AS 46.03.296 - 46.03.311 the department may

29 (1) petition the superior court for injunctive relief to

1       restrain a person from engaging in an unauthorized activity that is  
2       endangering or damaging the public health or the environment;

3               (2) assess a civil fine under (b) of this section; or

4               (3) bring an action in the superior court seeking civil  
5       penalties under (b) of this section.

6               (b) A violation of a provision of AS 46.03.296 - 46.03.311 is  
7       punishable by a civil fine of not less than \$10,000 and not more than  
8       \$100,000 for the first day of the offense, and a civil fine of not  
9       more than \$10,000 per day for each day the offense continues.

10              Sec. 46.03.313. CRIMINAL PENALTIES. A person who knowingly  
11       transports a hazardous waste to an unpermitted facility, or who know-  
12       ingly treats, stores, or disposes of a hazardous waste without a  
13       permit, or who knowingly makes a false statement or a misrepresenta-  
14       tion in an application, label, manifest, record, report, permit, or  
15       other document filed, maintained, or used for the purposes of AS 46.-  
16       03.296 - 46.03.311, is guilty of a class B misdemeanor and shall be  
17       sentenced to a fine of not less than \$10,000 per day and not more than  
18       \$50,000 per day for each day during which the offense continued and to  
19       a term of imprisonment of not less than 180 days.

20              Sec. 46.03.314. DUTIES OF THE DEPARTMENT. The department shall

21               (1) investigate and respond in writing to a complaint filed  
22       by a citizen in accordance with the provisions of 42 U.S.C. 6901 -  
23       6987; and

24               (2) provide public notice and a public comment period of  
25       not less than 30 days for a proposed settlement of a department en-  
26       forcement action.

27       \* Sec. 7. AS 46.03.760(a) is amended to read:

28               (a) A person who violates or causes or permits to be violated a  
29       provision of this chapter, other than AS 46.03.296 - 46.03.311, or

1 AS 46.04, or a regulation, a lawful order of the department, or a  
2 permit, approval, or acceptance, or term or condition of a permit,  
3 approval, or acceptance issued under this chapter or AS 46.04 is  
4 liable, in a civil action, to the state for a sum to be assessed by  
5 the court of not less than \$500 nor more than \$100,000 for the initial  
6 violation, nor more than \$5,000 for each day thereafter on which the  
7 violation continues, and which shall reflect, when applicable,

8 (1) reasonable compensation in the nature of liquidated  
9 damages for any adverse environmental effects caused by the violation,  
10 which shall be determined by the court according to the toxicity,  
11 degradability and dispersal characteristics of the substance dis-  
12 charged, the sensitivity of the receiving environment, and the degree  
13 to which the discharge degrades existing environmental quality;

14 (2) reasonable costs incurred by the state in detection,  
15 investigation, and attempted correction of the violation; and

16 (3) the economic savings realized by the person in not  
17 complying with the requirement for which a violation is charged.

18 \* Sec. 8. AS 46.03.790(a) is amended to read:

19 (a) A person who violates or who causes or permits a violation  
20 of a provision of this chapter other than AS 46.03.296 - 46.03.311 or  
21 AS 46.04, or of a regulation, lawful order of the department, or  
22 permit, approval, or acceptance, or term or condition of a permit,  
23 approval, or acceptance issued under a provision of this chapter other  
24 than AS 46.03.296 - 46.03.311 or under AS 46.04 is guilty of a class B  
25 misdemeanor.

26 \* Sec. 9. AS 46.03.790(b) is amended to read:

27 (b) A person who wilfully violates a provision of this chapter  
28 other than AS 46.03.296 - 46.03.311, or of a regulation, lawful order  
29 of the department, or permit, approval, or acceptance, or term or

1        condition of a permit, approval, or acceptance issued under a provi-  
2        sion o. this chapter other than AS 46.03.296 - 46.03.311 or under  
3        AS 46.04 is guilty of a class A misdemeanor.