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Introduced: 2/17/96
Referred: Community & Regional
Affairs and Resources

BY KOPONEN, HURLEY,
DAVIS AND GOLL

1 IN THE HOUSE

2 HOUSE BILL NO. 673

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation of hazardous
7 substances in municipalities."

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

9 * Section 1. AS 29.35.140 is amended by adding new subsections to read:

10 (b) A municipality may by ordinance

11 (1) provide for the establishment of a system to monitor
12 the transportation of hazardous substances in the municipality;

13 (2) provide for routing and advance notification procedures
14 for the transportation of selected hazardous substances in the munici-
15 pality;

16 (3) provide for the placarding of vehicles used to trans-
17 port hazardous substances in the municipality; and

18 (4) require persons transporting a hazardous substance in
19 the municipality to notify the municipality of the hazardous substance
20 as provided in the ordinance.

21 (c) In this section

22 (1) "hazardous substance" means

23 (A) an element or compound that, upon entering surface
24 or subsurface lands or waters, presents an imminent and substan-
25 tial danger to the public health or welfare, including a danger
26 to fish, animals, vegetation, or any part of the natural habitat
27 in which they are found; or

28 (B) a substance defined as a hazardous substance under
29 state or federal law or under a regulation adopted in accordance

1 with state or federal law;

2 (3) "person" has the meaning given in AS 01.10.060 and also
3 includes a political subdivision, government agency, municipality, or
4 other public or private entity.

Position Paper

CS for House Bill No. 673 (C&RA)

For an Act entitled: "An Act relating to transportation to hazardous materials in municipalities."

This bill would enable municipalities to establish a system to monitor transportation of hazardous materials; provide for routing the transportation of selected hazardous materials; provide for the description, marking, labeling, and placarding of bulk containers on vehicles used to transport hazardous materials in the municipality; and require persons transporting a bulk shipment of hazardous material to notify the municipality of the hazardous material as provided in the local ordinance.

POSITION

The Department of Health and Social Services supports the general concepts of CSHB 673 (C&RA) and feels that it will enable municipalities to better plan for potential hazardous materials emergencies, because local officials will be notified of the existence of various hazardous materials substances and can propose transportation routing to ensure optimum protection of the public.

Recommended by:

Elizabeth Ward
Elizabeth Ward, M.N.
Director
Division of Public Health

Date:

April 9, 86

Recommended by:

J. R. Pugh
John R. Pugh, Commissioner
Department of Health and
Social Services

Date:

4/16/86

Hein
4/1/86

Original sponsors: Koponen, Hurley,
Davis and Goll

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 673 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation of hazardous
7 materials in municipalities."

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

9 * Section 1. AS 29.35 is amended by adding a new section to read:

10 Sec. 29.35.143. TRANSPORTATION OF HAZARDOUS MATERIALS. (a)

11 Consistent with federal law, a municipality may by ordinance

12 (1) provide for the establishment of a system to monitor
13 the transportation of hazardous materials in the municipality;

14 (2) provide for routing the transportation of selected
15 hazardous materials in the municipality in accordance with U.S. De-
16 partment of Transportation policies regarding the use of

17 (A) comparative safety analyses; and

18 (B) a process involving substantive consultation with
19 other jurisdictions affected by the routing;

20 (3) provide for the description, marking, labeling, and
21 placarding of bulk containers or vehicles used to transport hazardous
22 materials in the municipality, as provided in 49 C.F.R. 172.200 -
23 172.558; and

24 (4) require persons transporting a bulk shipment of a
25 hazardous material in the municipality to notify the municipality of
26 the hazardous material as provided in the ordinance.

27 (b) Notwithstanding AS 29.35.200, 29.35.210, and 29.35.220, a
28 borough may exercise powers under this section on an areawide or
29 nonareawide basis.

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(c) In this section

(1) "hazardous material" means a substance regulated as a hazardous material under 49 C.F.R. 100 - 199;

(2) "person" has the meaning given in AS 01.10.060 and also includes a political subdivision, government agency, municipality, or other public or private entity.

MEMO TO NIILLO

FROM DOUG

RE: HB673, today in C&RA

There are several areas of concern in the new draft that you should be aware of.

1. Section 1, #1, This may be viewed by the truckers as an invitation to the municipalities to create a different system in each jurisdiction. Perhaps the addition of language, "in consultation with the Dept. of Public Safety" would satisfy potential objections.

2. Section 2, #4, This addresses the quantity issue and seems rather vague. It will probably require further refining. The following language, or something like it, may be required: "in a quantity equal to or greater than the reportable quantity (RQ) in 49 CFR 172.101 and is a mixture or solution containing a hazardous material in excess of the concentration shown in the table in 49 CFR 172.8 to notify..."

or perhaps more generic language such as "require persons transporting hazardous materials in quantities deemed an unreasonable health, safety, and property risk in accordance with CFR 172.8 notify..."



April 4, 1986

Representative Nilo Koponen
Pouch V
Juneau, Alaska 99811

Dear Representative Koponen,

The League of Women Voters of Alaska supports HB673, An Act relating to transportation of Hazardous Materials in municipalities. The League promotes energy-efficient and environmentally sound transportation systems that improve the well being of cities and other communities. HB673 creates a hazardous materials transportation system.

Hazardous materials are common place. Due to increased volumes being transported the League of Women Voters supports a program which allows emergency response teams to know what hazardous materials are on the scene of an accident, to identify the safest routes for hazardous material transport and to monitor amounts and kinds of hazardous materials withing the governmental entity at any given moment.

If hazardous materials are released into the environment by accident they immediately are classified as a hazardous waste. The League of Women Voters takes strong action to ensure the safe treatment, storage and disposal of all hazardous wastes. Costs of a hazardous waste spill are minimized when appropriate response is taken to contain and minimize exposure to hazardous waste. HB673 enables emergency preparedness.

HB673 allows the Municipalities the latitude to protect the wellbeing of citizens and minimize potential damage to the health and the environment within a community.

Sincerely,

Mary Core
Chairperson, Natural Resource Portfolio

LYNDEN, INC.

TESTIMONY ON HOUSE BILL 673
BEFORE THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
MARCH 23, 1986

Mr. Chairman and members of the Committee, my name is Reed Stoops and I am here today on behalf of Lynden, Inc. to comment on HB 673 "An Act relating to transportation of hazardous substances in municipalities."

First, for background, I would like to note that the transportation of hazardous materials, including hazardous wastes, is already regulated by the Federal Department of Transportation, and to some degree by the State Department of Environmental Conservation. Regulations now in effect cover the definition of hazardous materials and wastes, specifications for containers, placarding, manifests, inspections, routing, and notification. Attached for your review is the table of contents of the regulations to give you some idea of what is now required.

I am not here today to try to convince you that the existing regulatory system is perfect. It may be that some improvements would be desirable. But I do not believe that HB 673 provides the best mechanism to improve public safety, if that is your objective.

As a matter of policy, it does not make sense to turn over to municipalities what should be an issue of State concern. Were each municipality to adopt its own ordinance under the minimal guidelines of the bill, we would likely have a situation

where each municipality had a different definition of hazardous substances, different placarding requirements, different routing requirements, different minimum quantities of hazardous materials which would fall under the ordinance, and different notice requirements. There would also likely be duplication or inconsistencies with federal and State regulations. For a company like Lynden, which hauls a wide variety of hazardous materials, compliance with equally wide variety of municipal systems would be extremely difficult, particularly on hauls which pass through several municipal jurisdictions.

A much simpler and more effective strategy would be to define which specific hazardous materials or wastes are being transported in Alaska without adequate notice or placarding, and set up a uniform State system of prior notice to municipalities or uniform marking requirements which would be consistent with federal and state regulations. This would avoid duplication, simplify notice requirements, and provide some standardization, while still providing municipalities the level of safeguards they deem necessary to protect local residents.

Another issue which ought to be carefully considered is potential liability for accidents involving hazardous materials. If the State or municipality chooses to become more involved in notice, routing, placarding, etc., failure to properly execute its responsibilities will increase its potential liability. In today's insurance market, insurance to cover the handling of

hazardous materials is extremely expensive and difficult to obtain. In fact, it may be financially infeasible for any carrier to haul these materials in Alaska in future years. Both insurance cost and risk management should be carefully examined before adopting additional State or local regulations.

For these reasons, I urge you to postpone action of HB 673 until you have taken the time to more carefully define your objectives and to insure that you come up with an approach that is uniform and well suited to implementation by the State, municipalities, and the transportation of hazardous materials.

Thank you for the opportunity to address the Committee.

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Offered: 4/7/86
Referred: Resources

Original sponsors: Koponen, Hurley,
Davis and Goll

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 673 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to transportation of hazardous
materials in municipalities."

7

8

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

9

* Section 1. AS 29.35 is amended by adding a new section to read:

10

Sec. 29.35.143. TRANSPORTATION OF HAZARDOUS MATERIALS. (a)

11

Consistent with federal law, a municipality may by ordinance

12

(1) provide for the establishment of a system to monitor

13

the transportation of hazardous materials in the municipality;

14

(2) provide for routing the transportation of selected

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hazardous materials in the municipality in accordance with U.S. De-

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partment of Transportation policies regarding the use of

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(A) comparative safety analyses; and

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(B) a process involving substantive consultation with

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other jurisdictions affected by the routing;

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(3) provide for the description, marking, labeling, and

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placarding of bulk containers or vehicles used to transport hazardous

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materials in the municipality, as provided in 49 C.F.R. 172.200 -

23

172.558; and

24

(4) require persons intending to transport a hazardous

25

material in the municipality to notify the municipality if the quant-

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ity to be transported

27

(A) is 500 pounds or more; or

28

(B) if less than 500 pounds, is equal to or greater

29

than the reportable quantity of the material specified in the

Offered: 4/7/86
Referred: Resources

Original sponsors: Koponen, Hurley,
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than the reportable quantity of the material specified in the

1 Hazardous Materials Table in 49 C.F.R. 172.101.

2 (b) Notwithstanding AS 29.35.200, 29.35.210, and 29.35.220, a
3 borough may exercise powers under this section on an areawide or
4 nonareawide basis.

5 (c) In this section

6 (1) "hazardous material" means a substance regulated as a
7 hazardous material under 49 C.F.R. 100 - 199;

8 (2) "person" has the meaning given in AS 01.10.060 and also
9 includes a political subdivision, government agency, municipality or
10 other public or private entity.

DEPARTMENT OF PUBLIC SAFETY

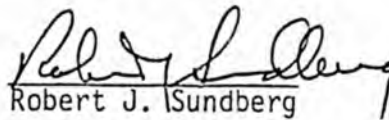
POSITION PAPER - HB 673

Neutral

March 21, 1986

HB 673 - "An Act relating to transportation of hazardous substances in municipalities."

This bill does not materially effect or impact this Department.


Robert J. Sundberg

LYNDEN INCORPORATED

670 W Fireweed, Suite 239
Anchorage, Alaska 99503
(907) 279-7501

March 18, 1986

Representative Peter Goll
Pouch V
Juneau, Alaska 99801

Dear Representative Goll:

Subject: House Bill 673

We are opposed to the passage of this bill out of committee until the ramifications of such a bill are investigated.

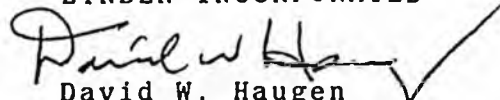
Your definition of hazardous substance does not conform to the definition set forth in Part 171 of Title 49 Code of Federal Regulations. This alone would cause a great deal of confusion with regard to shipping paper, packaging, and placarding. Then to further confuse shippers, you would allow each Municipality to set separate regulations for placarding.

The entire matter of transportation of Hazardous materials and hazardous wastes for all modes (highway, rail, air water) of transportation has been thoroughly regulated in CFR Title 49.

Please research CFR 49 before passing a bill that would be contrary to these federal regulations.

Sincerely,

LYNDEN INCORPORATED


David W. Haugen
V.P. Alaska Operations
& Administration

DWH:am

ALASKA WEST EXPRESS

INCORPORATED

March 18, 1986

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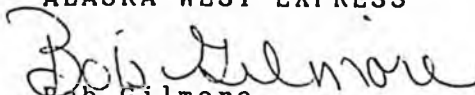
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Please research CRF 49 before passing a bill that would be contrary to these federal regulations.

Sincerely,

ALASKA WEST EXPRESS


Bob Gilmore
General Manager

BG:am

Original sponsors: Koponen, Hurley,
Davis and Goll

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 673 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation of hazardous
7 substances and wastes."

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

9 * Section 1. AS 29.35.140 is amended by adding new subsections to read:

10 (b) Consistent with federal law, a municipality may by ordinance

11 (1) provide for the establishment of a system to monitor
12 the transportation of hazardous substances in the municipality;

13 (2) provide for routing and notification procedures for the
14 transportation of selected hazardous substances in the municipality;

15 (3) provide for the description, marking, labeling, and
16 placarding of bulk containers or vehicles used to transport hazardous
17 substances in the municipality, as provided in 49 C.F.R. 172.200 ✓
18 172.558; and

19 (4) require persons transporting a hazardous substance in
20 the municipality in an aggregate amount of more than 500 pounds to
21 notify the municipality of the hazardous substance as provided in the
22 ordinance.

23 (c) In this section

24 (1) "hazardous substance" means

25 (A) an element or compound that, upon entering surface
26 or subsurface lands or waters, presents an imminent and substan-
27 tial danger to the public health or welfare, including a danger
28 to fish, animals, vegetation, or any part of the natural habitat
29 in which they are found; or

1 (B) a substance defined as a hazardous substance under
2 42 U.S.C. 9601-9657 (Comprehensive Environmental Response, Com-
3 pensation, and Liability Act) or 49 C.F.R. 172.101;

4 (2) "person" has the meaning given in AS 01.10.060 and also
5 includes a political subdivision, government agency, municipality, or
6 other public or private entity.

7 * Sec. 2. AS 46.03.308 is repealed.
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Hein
3/14/86

1 IN THE HOUSE

BY KOPONEN, HURLEY,
DAVIS AND GOLL

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 673
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transportation of hazardous
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13 (2) provide for routing and advance notification procedures
14 for the transportation of selected hazardous substances in the municipi-
15 pality;

16 (3) provide for the placarding of vehicles used to trans-
17 port hazardous substances in the municipality; and *as provided public DOT*

18 (4) require persons transporting a hazardous substance in
19 the municipality to notify the municipality of the hazardous substance
20 as provided in the ordinance.

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Compensation, and Liability Act) or 49 C.F.R. 172.101;

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STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 673
 Title: "An Act relating to transportation of hazardous substances in municipalities."
 Sponsor: Representative Koponen
 Requestor: House Community & Regional Affairs
 Date of Request: 3/21/86

FISCAL DETAIL

Agency Affected: Public Safety
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

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

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

FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :: Attach a separate page if necessary

Prepared by: *K. Niles* Kathy Niles, Admin Assistant Phone: 465-4336
 Division: Commissioner's Office Date: 3/21/86

Approved by Commissioner: *[Signature]* Date: 3/21/86
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

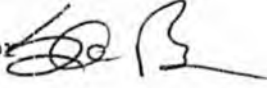
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

TO: Representative Peter Goll, Chairman
Members of the House Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

DATE: March 24, 1986

SUBJECT: HB 673 - Transportation of Hazardous Substances in
Municipalities

Attached is Alaska Municipal League Resolution #86-09 in support of the State giving municipalities additional authority to develop and enforce a community right-to-know program for hazardous materials handled, stored, transported, used, processed and disposed of in their communities. Based on this resolution, the League supports HB 673. The legislation authorizes, but does not require, action by municipalities who have a problem and the resources to carry out a community right-to-know program.

This legislation, if passed, along with several other pieces of legislation before the Legislature dealing with other aspects of the hazardous waste issue, will enable the State and the municipalities to better address the threat posed by hazardous substances in our communities and in Alaska.

On a related issue, I have also attached a copy of AML Resolution #86-05.

Again, the League supports HB 673. Thank you.

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 86-09

A RESOLUTION SUPPORTING STATEWIDE
HAZARDOUS MATERIAL DISCLOSURE LEGISLATION.

WHEREAS, the handling, storage, transportation, use, processing, and disposal of hazardous materials and hazardous waste occurs in all communities in Alaska, and

WHEREAS, the potential impacts of accidents associated with hazardous materials and hazardous wastes can have devastating impacts on the public health and the environment, and

WHEREAS, knowledge of the types of hazardous materials and hazardous wastes are critical and central to a community's ability to recognize potentially dangerous situations, and

WHEREAS, firefighters, police officers and other public safety and medical professionals often lack the information necessary to respond quickly and safely to emergencies involving hazardous materials and hazardous waste, and

WHEREAS, the public has the right to know what hazardous materials and hazardous wastes are in their community;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports the adoption of state enabling legislation to allow local governments to establish a Hazardous Materials Disclosure (Community Right-to-know) Program. Such a Hazardous Materials Disclosure law should address minimum program requirements for a municipality, including:

- a. Notification
- b. Placarding
- c. Transportation Routing
- d. Transportation requirements for selected materials
- e. Emergency Coordination Procedures

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 86-05

A RESOLUTION SUPPORTING ADOPTION AND ENFORCEMENT
OF HAZARDOUS MATERIAL TRANSPORTATION LEAD AGENCY
AND REGULATIONS.

WHEREAS, transportation of hazardous materials occurs in nearly every community in Alaska, and

WHEREAS, the potential impacts of accidents during the transportation of hazardous materials can have a devastating effect on the public health and environment, and

WHEREAS, there is no State agency to enforce regulations to assure hazardous materials are moved safely on roads in Alaska, and the federal agency charged with this responsibility is not able to adequately enforce regulations, and

WHEREAS, there are no State of Alaska highway transportation regulations for hazardous materials, and

WHEREAS, there are no state or federal regulations in the State of Alaska for the intrastate shipment of hazardous materials by highway;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League requests the State Legislature to designate and adequately fund a single State agency, such as the Department of Public Safety, to be responsible for assuring hazardous materials are transported safely on highways within the State of Alaska.

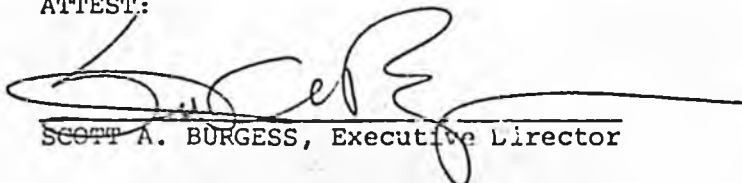
BE IT FURTHER RESOLVED, the State of Alaska is urged to adopt regulations for the safe transportation of hazardous material on State highways.

Adopted this 16th day of November 1985.



LEO B. RASMUSSEN, President

ATTEST:



SCOTT A. BURGESS, Executive Director

Nor were the regulations pre-empted by federal law or regulation. The Court found the local fire department regulations to be entirely consistent with, and in furtherance of, the federal regulations and their underlying purpose which is to promote safety to life and property.

The National Tank Truck Carriers case was followed more recently in a case in the New York Criminal Court in Richmond County, People of the State of New York v Dempsey and Miron (466 N.Y.S. 2d 923) (1983). Two truck drivers were charged with violating sections of the city code and charter that restricted the transportation of flammable liquids within city limits during restricted hours. The Court denied defendants claim that the regulations unconstitutionally restrained interstate commerce. It found the regulations were a reasonable way to achieve their public safety purpose.

In general, the Supreme Court is reluctant to invalidate state regulations in the field of highway public safety, as these regulations have a strong presumption of validity.

In conclusion, courts have upheld local ordinances that restrict the transportation of hazardous waste throughout a locality on grounds that the burden on interstate commerce is incidental and the restrictions are a reasonable way to achieve a legitimate public purpose. However, these local ordinances are not likely to pose a substantial threat to the out-of-state disposal of Minnesota's hazardous waste because they do not ban the transportation of out-of-state wastes, but merely reasonably restrict the transportation of all wastes, whatever their origin.

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Rep. Koponen: House Bill 673 is an act relating to transportation of hazardous substances in municipalities. Essentially intended to re-enforce in statute the power of municipalities by ordinance control traffic within the municipality.

That's a common and accepted power however it isn't stated firmly in statute.

The problem we had at first cause nobody gave us the proper CFR citations for...we do have them now and you have a sponsor substitute that at least incorporates in line 28 of the first page and line 1 of the second page, a change from the original language which was too vague and not supportable. " Under regulations, state or federal law or under a regulation adopted in accordance with this..." What we had referenced to the federal law was 42 U.S.C. 9601-0657 (Comprehensive Environmental Response Compensation and Liability Act) as cited in federal regulation 49 C.F.R. 172.101.

Now that change meets with one improvement and prior to acceptance or non-acceptance to it, I'd like to make a couple of additional changes. One of which we don't have all the data for, so you'll have to accept it until we get the proper citation.

Line 13 says that "provide for routing and advance notification procedures for the transportation of selected hazardous substance in the municipality" The word "advance" and I was aware of that before, has various legal ways of interpretation. The intention was to provide that when a scheduled carrier lays out a routing, that they give notification of that particular routing in advance of putting that their schedule into effect to the municipality or that the municipality have the authority. It does not and was not intended to mean that they will give notification of every shipment, that's in some instances that's feasible, in other instances, especially with smaller or discontinuance delivery schedules that would not be so...I would like the word "advanced" defined on line 13.

On line 17 "provide for the placarding of vehicles used to transport hazardous substances in the municipality" we discussed placarding in another, in a related bill, and essentially have not, I don't remember whether we adopted the U.S. DOT regulations or not; I think that we would find ourselves in a cause of the interstate commerce act, in transportation we would be forbidden to define a different system of placarding so to prevent the municipality from coming up with yet let's say a purple stickers instead of the red, other pretty things that we have in U.S. DOT publication P 5000.3 we should reference the proper DOT manual number and insert the words as provided in U.S. DOT publication and

"unfortunately I don' t have the U.S. Codes reference so I can't give you the correct ...

Rep. Goll: but we could say publication number and fill that in right?

Rep. Kopoene: right, I believe so, and that would make it more workable. Those are the changes I had intended to put into the sponsor substitute.

Rep. Goll: This sponsor substitute is a draft that you would like adopted as committee substitute?

Rep. Kopoene: Yes, committee substitute and perhaps ..testimony here, We have Commissioner Ross there are also concerns by State Affairs and Transportation committees we don't necessarily have those, so we might hold this after testimony.

Rep. Gruenberg: I rove that we adopt the CS, was labeled sponsor substitute for HB 673, we considier it a Committee Substitute with the changes recommended by Rep. Kopenen, striking on lin 13 the word "advance" and adding after municipality and before the semicolon on line 17 "as provided in DOT publication blank; and as provided in certain publications

Rep. Goll: let's just get what we've got under control and when we have the additional information, we'll add it.

As provided by U.S. DOT publication no. and other changes will be added.

Adopted committee substitute - staff to transmit to legal for drafting.

Commissioner Ross: Sponsor Koponen has outlined what this bill would do. I would like to add our support for the concept of the bill, since it would allow municipal public safety agencies to obtain the information of movement of hazardous substances in their communities.

I would want to reiterate what the sponsor has indicated as necessary for the substitute. Our research into the bill does indicate the changes that he's proposed would avoid having this conflict with federal law with regard to interstate commerce in transportation. It's also the case that the definition of hazardous substance instead of contained within the sponsor substitute are superior and in particular would support the bill to cshb 470 which has passed out of the finance committee which is also providing new definition to hazardous substance, so I think the minimal number of definitions we have for these materials would be appropriate.

One thing that I would want to point out to even the committee substitute is that it does not have a limit on the quantity of materials that might be subject to this law and as such I think that some further work in that area would help improve the law so that we don't end up having miniscule or other quantities of hazardous materials.

Someone did point out to me ...that you do it go to Fred Meyers to pick up some Clorox have to call someone before they did that; they'd have to call before left house cause there's gasoline in the tank. So there is a sense of quantity to deal with in the bill.

This bill would have no impact on DEC, however, in a previous bill passed by the legislature in codified Alaska Statutes 46.033.08 we do have reporting requirements. People who are driven hazardous wastes have to let us know and we are then to notify the community given the definition in the committee substitute, it probably would be appropriate to repeal that obligation upon the department if this legislation became law because we would definitely ...reporting requirements. one to us and one to the municipality so I could just point that out that there's something ...reasonable to....

Rep. Goll: you're speaking about line 19 of the work draft?

Commissioner: We have requirements that people are to notify us in regards to transportation of hazardous and we are to notify the municipalities and if the municipalities set this up then going through us would be duplicative and as such would not be necessary.

This bill is also more comprehensive than what we do. There is no real obligation on purpose so to speak. They suppose to notify us, we're suppose to notify the communities and nothing necessarily happens. This was set up a system in which something useful could happen.

Rep. Marrou: I had very little problem with the original bill, I thought it was pretty well written. However, we have now got 3 references in here; one to the U.S. Code, one to the code of federal regulations and one to some obscure DOT publication, that if we put them in here, first of all we're accepting those totally as law and I don't know the slightest thing about them and furthermore I don't want to know anything about them because that means we have to go over those with a fine tooth comb to know exactly what we're putting into Alaska Statutes.

The second problem I see with putting those references in here is that they may and probably will change in the future. We now have 42 U.S.C. 9601-9657 and I don't know if that includes all of the 56 in the middle there, but suppose they delete one

of them or change them or add to them, then our law will be out of whack.there is a basic problem with citing other bodies of law within our own statutes. That's why I liked the original bill.

REp. Furnace: I think a portion of this legislation highlight experience a couple days ago with the railroad...you mention that currently regulations require a person who will be moving hazardous substance to notify the department.

Commissioenr: hazardous waste

Rep. Furnace: hazardous waste; so it doesn't include chemicals or any type

Commissioenr: merely the waste products associated with...that are defined under this particular legislation

Furnace: then is it advisable in your opinion that we may want to expand upon this legislation to include chemical substance.

Commissioenr: that would be what's in that CFR would be getting at. Those would be hazardous materials, hazardous substances.

Furnace: Then let me make sure I understand that if it covers it. You're speaking of subsection (b) bottom of page 1, line 20-29 through page 1. What's the tie in?

Commissioner: The tie in is that with regards to transportation you want to deal with 2 classes of materials. One of them is substances, these are raw materials or products that are going toward some useful productive use. For example, the railroad car which was going toward chemical to be used to be... you can have a problem with those kinds of materials. Then you have a second category which is the waste products which in Alaska, even if we did have an in-state disposal site, still have to transport that from one place to another. In making reference to federal law with regards to definitions there are 2 places that you go to find hazardous materials and hazardous wastes. One of them is CERCLA and then CFR department of transportation may deal with the materials or substance ...and you would have to find them that the railroad car was indeed placarding hazardous substance.

Furnace: What I would like to see here, this legislation deals with municipality and ordinance. What I want to make sure is if the railroad again transports the hazardous substance similar to the incident of several days ago, that at least some process is followed by which communities or at least there is a recording chain of events to be able to move them more rapidly. It's my understanding once the railroad was at

least appraised of it, leaves to legislative channels, there was somewhat of a calesed difference. And the reference was that we'll let the insurance companies take care of it as opposed to moving more expeditiously.

Commissioner: generally, at this time point and time and the requiement that I referred to in regards to the deaprtment is merely on hazardous wastes. So, there is no requiement that for example the railroad would have to let us know that the rail car is full raw materials are moving through. Howeer, there is requirements under federal law through the interastate commerce commission that getting hazardous materials going interstate commerce be notified to htme. And that's where the glich, one of the gliches appears to be was that they looked at the ...suppose to be...describe what was in there that's when...miinterpretating waht wasin that car...heating.

What this does is fill that gap, not necesarily at the state level. Basically what this owuld do is provide for exampel, for Anchorage to be abelto say, now look all this stuff is comint into us and it's leaving for Kenai, what we want to know when it's in our jurisdiction, let us know.

Furnace: let me maybe refrain my concern. In an instance where the rialroad transport a hazardous substance there appeared to be no in place mechanism to alert either a

depratemtn such as DEC or the municipality that this substance is being transported through the community. Now it was compounded by the fact that when the railroad management was alerted that there was a problem, there response was we'll go against the insurance company as opposed to taking some positivie action in order to protect the potential loss of lives. We need to clsoe that type of a loop hole.

Gruenberg: And you have a train that goes from Fairganks through Wawsilla, Anchorage, Eagle River, all the way down to Seward and I want to be sure that commerce can move freely thfouth this state and that there is one central agency that people get clearance from so we don't impede all sorts of reasonalbe commerce.

Commissioner: HB 470 moving through, has passed Finance, would require that the release of hazardous substances be notified to DEC. That is part of what Rep. Furnace is getting to. When that thing started venting, did they call anybody? Well, they called the manufacturer first and only. That's all they did call. The question is: Should they have called somebody else. HB 470 which is moving through will fill that gap. What Rep. Gruenberger is referring to is as this is moving, prior to there being any problem, who needs to know that this stuff is coming through their particular community and this is in part to address that as each community individually. I would defer to Rep. Koponen who has Bill 672

which I understand attempts to fill the other gap what you're talking about: the statewide notification system. In that people would, in that bill, have to notify us. However, there's nothing in that legislation that tells us what to do with all of that and I would leave it to you all to imagine who is the proper agency to do what Rep. Gruenberg talked about with regards to insuring that so central point always knows where all of this stuff is and is communicating with the communities as it moves through them.

Gruenberg: what I'm concerned about is: Let us say that we have Lynden Transport, It's not as much of a problem with a big entity like the Alaska Railroad or Mammoth Express or some company that has a truck load of something. And it goes through 25 small and medium sized communities going from hither to there, coming in on the Alaska Highway for example. I think it could become an unreasonable burden to have to notify every little community that they're going through and there should be some reasonable method of dealing with this so that the public's protected but the commerce is not impeded.

Commissioner: With regards to hazardous wastes, there is implied in Section 46.03.308 that we would have some role in that, hazardous wastes. Because again, any transport of hazardous waste and there's not nearly as much hazardous waste as there is hazardous materials. We don't have very much hazardous waste up here compared with utilization of these

chemicals. They are to notify us and we are to then notify the communities along that route. We have not implemented any regulations to do that...but we have informally complied with that law and had some success. The communities are glad to know for example that a shipment of PCB's contained in soil are moving down to Seward will be shipped out... We'll let people know along the route.

Gruenberger: Suppose you have a little town, town X, and town X gets a group of people on their city council who desire to raise some money for the treasury by creating a speed trap. They have an ordinance that says anybody who transports any hazardous material through this town must notify the chief of police and they have the local policeman sitting out there by the city limits and along comes unsuspecting truckers and they just stop them and this sort of thing. They could by ordinance do that.

Commissioner: I would defer to Rep. Koponen in that his comments about advance notification are included here. It could be unconstitutional.

Goll: Regarding the Alaska Railroad, do have a recommendation germane to this bill as to railroad transport that you want to put on the record.

Commissioner: No

Goll: Regarding the rights of municipalities to say that irrespective of the concerns of commerce, that they have the right to control transport substances through their municipality. Do you have any comments?

Commissioner: No

Goll: This meeting is adjourned.

HOUSE
COMMITTEE REPORT

(7)

Date referred: 2/17/86

FURTHER REFERRALS: RESOURCES

COMMUNITY AND
The REGIONAL AFFAIRS

DATE: 4-4-86

Committee has considered HB 673

"An Act relating to transportation of hazardous substances in municipalities."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 673 same title
- new title

and recommends DO PASS

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Alvin E. Kopman
Mark S. Libenberg
ROD E. GRUB
AL M. MARROU
Peter Joe

Peter Joe
Chairman

APRIL 4, 1986

BY THE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
CS FOR HB NO. 673 (C7RA)

"An Act relating to transportation of hazardous materials
in municipalities."

Sec. 29.35.143 TRANSPORTATION OF HAZARDOUS MATERIALS

amend HEIN 4/1/84 WORK DRAFT (4) to read:

(4) require persons transporting 500 pounds of hazardous material or the quantity of hazardous material reportable under 49 CFR, whichever is less, in the municipality to notify the municipality of the intent to transport hazardous material as provided in the ordinance.

Alaska State Legislature

File

P. O. BOX 2801
FAIRBANKS, ALASKA 99707



P. O. BOX V — STATE CAPITOL
JUNEAU, ALASKA 99801

Senate
Office of the President

March 6, 1986

Juanita Helms, Mayor
Fairbanks North Star Borough
P. O. Box 1267
Fairbanks, Alaska 99707

Dear Mayor Helms:

Thank you for your letter regarding House Bills 672 and 673 on the transportation of hazardous materials within and into municipalities. House Bill 672 is currently in the House State Affairs Committee and House Bill 673 is currently in the House Committee on Community and Regional Affairs. I will send a copy of your letter to Representatives Hurley and Goll, chairpersons of the above committees respectively. I am certain they will take your suggestion into consideration.

I appreciate hearing from you regarding this issue and hope you will feel free to contact me about other matters of concern to you.

Best regards,

Senator Don Bennett

DB/jmj



**Fairbanks
North
Star
Borough**

*TO Bob
for today's
CNA meeting*

Mayor: Juanita Helms

March 3, 1986

Honorable Peter Goll
Chairperson
House Community and
Regional Affairs Committee
Alaska State Legislature
Pouch V (Mail Stop 3100)
Juneau, Alaska 99811

Dear Representative Goll:

I am writing in support of House Bills No. 672 and No. 673, relating to the transportation of hazardous materials within and into municipalities. The passage of these bills would enable the Fairbanks North Star Borough to track the arrival and movement of such materials in our community. Such information would be of great benefit to emergency responders in the community, and would ultimately result in a significant improvement in their ability to protect public health and welfare from accidents involving these materials.

Our one recommendation for inclusion in these bills would be a definition under HB 672 for "service district" (referenced in Sec. 46.03.895(b)) to ensure that all appropriate emergency responders are notified in accordance with the proposed regulations.

The Fairbanks North Star Borough endorses these bills and would like to urge your support of these measures.

Sincerely,

Juanita Helms
Borough Mayor

JH:rlf

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

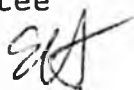
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 1, 1986

SUBJECT: Authority of Municipalities to Regulate the
Transportation of Hazardous Materials (CSHB
673 (C&RA))

TO: Representative Peter Goll
Chairman, House Community and Regional
Affairs Committee

FROM: Edward H. Hein 
Legislative Counsel

Your assistant, Bob Berry, asked whether municipalities already have authority to regulate the transportation of hazardous materials through their jurisdictions. Under AS 29.35.220, a third class borough may acquire such authority on a service-area basis only. Under AS 29.35.200 - 29.35.210, first and second class boroughs have such authority, but not on an areawide basis. Under AS 29.35.250 - 29.35.260, cities have such authority. All this authority, however, is subject to conformity with federal Department of Transportation regulation.

EHH:ml
050/me1

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

542 4th Avenue, Suite C
Fairbanks, Alaska 99701
(907) 456-8161

HB 673 - An Act Relating to Transportation of Hazardous
Substances in Municipalities.

HB 673 amends AS.29.35.140 to provide a provision in state law that allows municipalities to establish a system to monitor hazardous substance transportation through their community.

It would allow communities to provide for routing and advance notification procedures, requirements for placards on vehicles used in the transport, and requirements for notification of authorities about hazardous substances.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

HB 673

An Act Relating to Transportation of
Hazardous Substances in Municipalities

This proposed bill amends AS 29.35.140 by adding two new subsections, the first to provide that municipalities may adopt by ordinance a program to monitor the transportation of hazardous substances, which includes four elements:

- (1) a system to monitor transportation in the municipality
- (2) transportation routes and advance notification procedures
- (3) placarding of vehicles
- (4) a requirement that transporters notify the municipalities

Subsection (c) defines hazardous substance.

The Department of Environmental Conservation (DEC) supports the concept of this bill since it would allow municipal public safety agencies to obtain the information on the movement of hazardous substances in their communities. The Department has three specific comments on this bill:

- (1) There may be difficulty in requiring placarding of vehicles beyond that required by the U.S. Department of Transportation because federal transportation requirements prevail in a conflict with State or local requirements. DEC is not aware of whether the bill includes any other conflicts with federal transportation requirements.
- (2) Several definitions of "hazardous substance" have been included in bills being reviewed by this Legislature. I suggest you consider using the definition which appears at AS 46.08.900(6) in the proposed CSHB 470 (Finance) dated 3/8/85.
- (3) The bill does not set any limit on the quantity of material subject to this law. You may wish to indicate that it is intended to apply to the transportation of materials in bulk containers greater than some specific volume.

It might be appropriate, in conjunction with this bill, to repeal AS 46.03.308, which establishes another set of reporting requirements. Passed as part of SB 503 in 1984, AS 46.03.308 requires that generators of hazardous wastes (a subset of materials) notify DEC. DEC is then required to notify local governments of shipments. This bill would be more comprehensive and would achieve the same purpose.

Thank you for the opportunity to comment. My staff is available to work with yours as this proposal moves through the legislative process.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 673
 Title : "An Act relating to transportation of hazardous substances in municipalities."
 Sponsor : Niilo Koonen
 Requestor : C & RA and Resources
 Date of Request : 3/10/86

FISCAL DETAIL

Agency Affected : Environmental Conservation
 BRU : Environmental Quality
 Components : Director's Office

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING : (Thousands of Dollars)

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

POSITIONS : NONE

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : S.W. Hungerford Phone : 465-2666
 Division : Environmental Quality Date : 3/10/86

Approved by Commissioner : Bill Ross Amy DKyle / fr Date : 3/12/86
 Agency : Environmental Conservation

Distribution (by Agency preparing fiscal note) :

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Environmental Conservation	DIVISION Environmental Quality	BILL NUMBER HB 673	SPONSOR Niilo Koponen et al.
DEPARTMENT POSITION Supportive			
PREPARED BY S. W. Hungerford	DATE 3/11/86	COMMISSIONER'S SIGNATURE Bill Ross <i>Am DKyl</i>	DATE 3/11/86
SUMMARY			
OTHER AGENCIES AFFECTED BY BILL None Apparent		CONSTITUENT GROUPS AFFECTED BY BILL Communities Railroad/Trucking Firms	
ORGANIZATIONAL SUPPORT FOR BILL		ORGANIZATIONAL OPPOSITION TO BILL Unknown at this point	
FISCAL IMPACT: <input checked="" type="checkbox"/> NONE <input type="checkbox"/> FISCAL NOTE ATTACHED			
BACKGROUND/LEGISLATIVE INTENT			
ANALYSIS OF BILL/PROGRAM EFFECTS SEE ATTACHED COMMENTS			
AMENDMENTS PROPOSED			

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Training for toxics accidents called lax

WASHINGTON (AP)—Three-fourths of the nation's police and firemen are inadequately trained to respond to accidents involving transportation of hazardous materials, a new congressional study says.

And even if a trained team reaches the scene of a ruptured tank truck, improper labeling of the vehicle's contents can produce a wrong, dangerous response, the Office of Technology Assessment said in a study released today.

OTA quoted state officials as saying that from 25 percent to 50 percent of the identification placards required on hazardous material shipments are incorrect and that shipping documents "are sometimes incomplete or inaccessible."

"Emergency crews must assess the risks of the hazardous material and make decisions on how to respond based on information that may or may not be accurate," said OTA, a nonpartisan congressional agency.

"The wrong response to a hazardous material endangers both

emergency personnel and the neighboring communities," said the study, which urged adoption of federal training and response standards to replace a mishmash of state requirements.

Asked why so many placards are incorrect, Edith Page, who directed the study, said: "In some cases it's ignorance. In some cases it's carelessness."

OTA said the most pressing need is to develop better ways of training safety personnel to handle accidents involving the 500,000 daily shipments of hazardous materials on U.S. highways, rail lines and waterway.

"Three-quarters of the first responders are not adequately trained to deal with hazardous substances," Ms. Page told a news briefing.

She said that a joke among response personnel is that you bring tennis shoes and binoculars to a toxic or nuclear material spill — using the shoes to quickly get a safe distance away and the binoculars to read the placard.

"Then you call for expert help,"

Ms. Page said. "This is often said in jest, but there's a strong element of truth in it."

OTA said that while some states and metropolitan areas have good response programs, "most first responders in smaller urban and rural areas have not been trained to deal with hazardous materials, despite many existing training programs.

"No national standards for training programs are currently in place, leading to the independent development of different training programs, some of which are inadequate," the study said.

Although it did not specifically urge more federal spending, OTA said continued support for state enforcement programs "is important, since federal inspection forces are shrinking due to budget constraints."

OTA recommended better training and a national license for operators of vehicles carrying hazardous substances in an effort to reduce the average of 11,462 accidents the Transportation Department

says occurred yearly between 1973 and 1983.

In most states, Ms. Page said, a truck driver needs no special license for hazardous cargoes. "The nephew or son of the owner can drive a gasoline truck," she said.

Ms. Page said OTA doesn't trust Transportation Department figures indicating that the incidence of accidents involving hazardous materials is decreasing.

"The data collected is so poor we don't know whether things are getting better or worse," said Ms. Page, adding that OTA found "substantial underreporting" in federal accident statistics.

ment agencies, fire departments, ambulance services, and other organizations that are intended to respond to emergency situations of imminent danger to life or property;

(2) "state agency" means a department, division, or office in the executive branch of state government. (§ 10 ch 74 SLA 1985)

Sec. 29.35.140. Regulation of transportation carriers. A municipality may not regulate an activity regarding transportation of passengers or freight for hire if the regulation conflicts with the regulation of that activity by the Alaska Transportation Commission as the regulation existed on April 1, 1983 under former AS 02.05, former AS 42.07, or former AS 42.10. (§ 10 ch 74 SLA 1985)

Sec. 29.35.145. Regulation of firearms. (a) A municipality may not, except by ordinance ratified by the voters, restrict the right to own or possess firearms within a residence or transport unloaded firearms.

(b) This section applies to home rule and general law municipalities. (§ 10 ch 74 SLA 1985)

Article 2. Mandatory Areawide Powers.

Section
150. Scope of areawide powers
160. Education

Section
170. Assessment and collection of taxes
180. Land use regulation

Effective date of article. — Section
90, ch. 74, SLA 1985 provides: "This Act
takes effect January 1, 1986."

Sec. 29.35.150. Scope of areawide powers. A borough shall exercise the powers as specified and in the manner specified in AS 29.35.150 — 29.35.180 on an areawide basis. (§ 10 ch 74 SLA 1985)

Sec. 29.35.160. Education. (a) Each borough constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060. A military reservation in a borough is not part of the borough school district until the military mission is terminated or until inclusion in the borough school district is approved by the Department of Education. However, operation of the military reservation schools by the borough school district may be required by the Department of Education under AS 14.14.110 if the military mission is terminated.



From: The Bureau of
Nat'l Affairs, Inc.
1231 25TH St. N.W.
Wash, D.C. 20037

RIGHT-TO-KNOW:
A Regulatory Update on
Providing Chemical Hazard
Information

PUBLIC LAW NUMBER

CSSB 79 (Res), Toxic and Hazardous Substances in the Workplace

ENACTED

July 25, 1983

REGULATIONS FOUND AT

Alaska Administrative Code, Title 8, Subchapter 15 - Hazard Communication Code (Effective Sept. 12, 1984)

EFFECTIVE DATES

- ▶ July 26, 1983, for the Alaska Department of Labor to publish the first annual list of toxic substances, maintain MSDSs, and assist employers in getting chemical information and developing education programs. Also for employers to begin employee safety education and training programs.
- ▶ July 1, 1984, for MSDSs to accompany all toxic and hazardous substances brought into the state. This does not apply to a substance for which the in-state purchaser has already received the most current information.
- ▶ Nov. 25, 1986, for manufacturing employers to develop and implement a written hazard communication program, and provide labeling and other for warning.

BRIEF DESCRIPTION OF LAW

This law parallels and exceeds the federal OSHA standard. It requires manufacturers and importers of chemicals to assess the physical and health hazards of chemicals they produce or import and to provide labeling and material safety data sheets that explain the hazards of the substances, precautions for use, and emergency information.

Inclusion of a substance on any number of recognized lists of hazardous substances automatically deems it a hazardous substance for purposes of the law. Distributors must see that containers of hazardous chemicals are properly labeled and must provide a MSDS with hazardous chemicals sold to customers in the manufacturing sector, Standard Industrial Classification Codes 20-39.

Employers in the manufacturing sector must provide information to their employees concerning chemical hazards through a hazard communication program that must include labeling of hazardous chemicals, MSDSs, training on safe handling and emergency procedures, and access to records about hazardous chemicals.

Trade secret protection is provided with access granted in emergency medical situations. There is a partial exemption for laboratories.

Exemptions are provided for certain chemicals or products regulated by other state or federal agencies.

TRADE SECRETS/CONFIDENTIALITY

Trade secret protection must be claimed as entitled under state and federal law.

How to Claim

A chemical manufacturer, importer, or employer may withhold the specific chemical identity, including the chemical name and other specific identification, of a hazardous chemical from the MSDS if the claim can be supported.

Information on properties and effects of the substance must be disclosed on the MSDS. The MSDS must indicate the chemical identity is being withheld as a trade secret.

The identity must be made available to health professionals.

Emergency Access

Manufacturer or employer must disclose the chemical identity to health professionals in an emergency and may require a written statement of need and confidentiality statement as soon as circumstances permit.

Other Access

In non-emergency situations, a health professional or the person providing medical or occupational health services to the employee may request chemical identity information in writing and must provide a written confidentiality agreement. The need for the information must be explained in detail.

If the manufacturer, importer, or employer decides to deny the request, the denial must be provided to the health professional within 30 days, be in writing, state why the request is being denied, and explain in detail how alternative information may satisfy the need for information.

Denials may be appealed to the Alaska Occupational Safety and Health Section for consideration. If the AOSHS determines that the specific chemical identity requested is not a bona fide trade secret, or that it is a trade secret but the requesting health professional has a legitimate medical or occupational health need for the information, and has executed a written confidentiality agreement and shown adequate means to protect the confidentiality of the information as required, then the chemical manufacturer, importer, or employer will be subject to citation by the AOSHS. If after being issued a citation and any protective orders, the employer continues to withhold the information, the matter may be referred to the Occupational Safety and Health Review Board for enforcement of the citation.

COMMUNITY PROVISIONS

None.

PENALTIES FOR VIOLATIONS OF LAW

Included in occupational safety and health state plan.

OTHER REQUIREMENTS

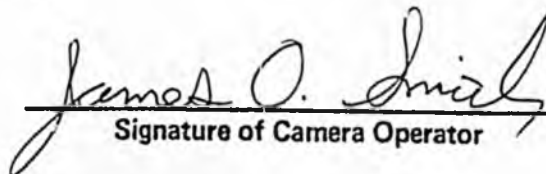
Alaska is an OSHA state plan state.

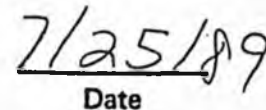


RECORDS CERTIFICATION



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Date