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STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

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2HB 315-

April 26, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to criminal penalties for negligent operation of a tank vessel, for negligent oil discharges, for failure to comply with an oil discharge contingency plan, and for failure to adequately clean up an oil spill.

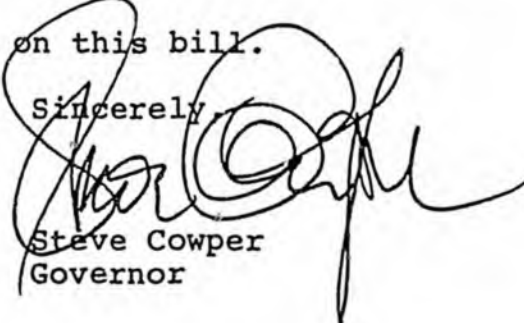
This bill increases the penalty for a negligent oil spill to a class A misdemeanor if the spill is less than 10,000 barrels, and to a class C felony if the spill is 10,000 barrels or more. In addition, the bill makes clear that criminal penalties will be imposed for failure to comply with an oil discharge contingency plan and for failure to adequately clean up an oil spill. Finally, the bill makes it a class C felony to actually endanger a person or property through negligently operating, navigating, or piloting a tank vessel. The need for this legislation arises from our review of criminal statutes in light of the Prince William Sound oil spill.

The class B misdemeanor penalty imposed under current law for negligent oil discharges, or for failure to comply with administrative regulations requiring adequate clean up of a discharge, does not accurately reflect the seriousness of the societal interests that are violated when a criminally negligent act causes extensive damage. Under the bill, felony penalties are imposed for negligent spills of 10,000 barrels or more (420,000 gallons), or for failure to respond appropriately to any spill of this magnitude.

The new crime of negligent operation of a tank vessel is similar in definition to the crime of negligent operation of a motor vehicle. However, given the extent of the possible damage from negligent operation of a tank vessel, the crime is designated a class C felony. The purpose of imposing felony penalties in this context is to provide a strong incentive for operators, navigators, and pilots of tank vessels to exercise an appropriate level of care to protect the lives and property of Alaskans.

I urge your favorable action on this bill.

Sincerely,



Steve Cowper
Governor

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 315
PUBLISH DATE: HOUSE 4/26/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act providing criminal penalties for negligent oil discharges..."
Sponsor: Rules/By Req. of the Governor
Requestor: Governor's Office/OMB

Agency Affected: Department of Law
BRU: Prosecution
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: April 24, 1989
 Approved by Commissioner: Douglas B. Bailly, Attorney General Date: April 24, 1989
 Agency: Department of Law

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. _____

This bill amends AS 46.03.790 by adding a new subsection that provides criminal penalties for negligent oil discharges and for inadequate cleanup of oil discharges. The new subsection provides that a person who negligently discharges oil in violation of AS 46.03.740, or who fails to comply with the provisions of an oil discharge contingency plan required under AS 46.04.030, or who fails to adequately clean up a discharge of oil as defined by regulation, is guilty of a class C felony if the discharge is 10,000 barrels or more, or guilty of a class A misdemeanor if the discharge is less than 10,000 barrels. By establishing these crimes, the bill seeks to set appropriate criminal penalties for the negligent discharge of oil, failure to comply with the provisions of an oil discharge contingency plan, and failure to adequately clean up a discharge of oil. The actual number of offenses is expected to be small and, consequently, fiscal note costs are not being requested.

This bill also amends AS 46.03 by adding a new section that provides criminal penalties for negligent operation of a tank vessel, when a person with criminal negligence actually endangers another person or property through operating, navigating or piloting a tank vessel. Tank vessel means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue. Criminal negligence has the meaning given in AS 11.81.900. The bill establishes the penalty for negligent operation of a tank vessel as class C felony. By establishing this new crime, the bill seeks to set an appropriate penalty for negligent acts that can cause major damage to other persons and the environment. The actual number of such acts is expected to be small. Because of the small number of expected offenses, fiscal note costs are not being requested.