

H B

315

DATE: 4/28/90

FURTHER:

DATE TURNED INTO OFFICE: 5-6-90

Resources Committee considered CSHB 315 (Judiciary) am

"An Act relating to criminal penalties for negligent operation of a tank vessel, for negligent oil discharge, for failure to comply with an oil discharge contingency plan, for negligent performance or failure to perform a required act relating to the handling of a hazardous waste, and for failure to provide information or providing false information about oil or a hazardous substance when required by law."

and recommended:

- replace with 5 CS CS HB 315 (Res) same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

Governor's bill w/fiscal note *DFM*
COU

SIGNING DO PASS:

[Signature]
[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS:

[Signature]
Chair: Signature and Recommendation

go1239hM

Chenoweth
5/5/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 315 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to criminal penalties for negligent
7 operation of a tank vessel, for negligent oil dis-
8 charge, for failure to comply with an oil discharge
9 contingency plan, for negligent performance or fail-
10 ure to perform a required act relating to the hand-
11 ling of a hazardous waste, and for failure to provide
12 information or providing false information about oil
13 or a hazardous substance when required by law."

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

15 * Section 1. AS 46.03 is amended by adding new sections to read:

16 Sec. 46.03.742. RECKLESS OPERATION OF TANK VESSEL. (a) A
17 person commits the crime of reckless operation of a tank vessel when,
18 by recklessly operating, navigating, or piloting a tank vessel, the
19 person causes a release of a hazardous substance and the release
20 causes serious physical injury to another person or damage to the
21 property of another.

22 (b) Reckless operation of a tank vessel is a class C felony.

23 (c) In this section, "reckless" has the meaning given in AS 11.-
24 81.900.

25 Sec. 46.03.743. NEGLIGENT OPERATION OF TANK VESSEL. (a) A
26 person commits the crime of negligent operation of a tank vessel when,
27 by operating, navigating, or piloting a tank vessel with criminal
28 negligence, the person creates an unjustifiable risk of a release of a
29 hazardous substance or an unjustifiable risk of harm to a person or

1 property.

2 (b) Negligent operation of a tank vessel is a class A misde-
3 meanor.

4 (c) In this section, "criminal negligence" has the meaning given
5 in AS 11.81.900.

6 Sec. 46.03.744. DEFINITIONS. In AS 46.03.742 - 46.03.744,

7 (1) "hazardous substance" has the meaning given in AS 46.-
8 03.826;

9 (2) "tank vessel" means

10 (A) a vessel that is constructed or adapted to carry,
11 or that carries, as a means of transportation by water, a hazard-
12 ous substance in bulk as cargo or cargo residue;

13 (B) the vessel that propels the tank vessel if the
14 tank vessel is a barge or other vessel that is not self-propell-
15 ed.

16 * Sec. 2. AS 46.03.790(a) is amended to read:

17 (a) Except as provided in (d) [(d) - (f)] of this section, a
18 person is guilty of a class A misdemeanor if the person with criminal
19 negligence

20 (1) [WHO NEGLIGENTLY] violates a provision of this chapter,
21 AS 46.04, or AS 46.09, [OR OF] a regulation or [, LAWFUL] order of the
22 department, or a permit, approval, or acceptance, or a term or condi-
23 tion of a permit, approval, or acceptance issued under this chapter,
24 AS 46.04, or AS 46.09;

25 (2) fails to provide information or provides false informa-
26 tion required by AS 46.03.755, AS 46.04, or AS 46.09, or by a regula-
27 tion adopted by the department under AS 46.03.755, AS 46.04, or
28 AS 46.09; or

29 (3) makes a false statement or representation in an

1 application, label, manifest, record, report, permit, or other docu-
2 ment filed, maintained, or used for purposes of compliance with
3 AS 46.03.250 - 46.03.314 applicable to hazardous wastes or a regula-
4 tion adopted by the department under AS 46.03.250 - 46.03.314 [IS
5 GUILTY OF A CLASS B MISDEMEANOR].

6 * Sec. 3. AS 46.03.790(d) is amended to read:

7 (d) Notwithstanding (a) [AND (b)] of this section, a person who
8 with criminal negligence discharges oil in violation of AS 46.03.740
9 or who, when required by an oil discharge to comply with the pro-
10 visions of an oil discharge contingency plan approved under AS 46.-
11 04.030, with criminal negligence fails to comply with the plan is
12 guilty of

13 (1) a class C felony if the oil discharge is 10,000 barrels
14 or more;

15 (2) a class A misdemeanor if the oil discharge is less than
16 10,000 barrels [FAILS TO PROVIDE OR FALSELY STATES INFORMATION RE-
17 QUIRED UNDER AS 46.03.755, AS 46.04, OR AS 46.09 IS GUILTY OF A MISDE-
18 MEANOR AND, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT MORE THAN
19 \$25,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH.
20 EACH UNLAWFUL ACT CONSTITUTES A SEPARATE OFFENSE].

21 * Sec. 4. AS 46.03.790 is amended by adding a new subsection to read:

22 (g) In this section,

23 (1) "barrel" has the meaning given in AS 46.04.900;

24 (2) "criminal negligence" has the meaning given in AS 11.-
25 81.900;

26 (3) "knowingly" has the meaning given in AS 11.81.900.

27 * Sec. 5. AS 46.03.790(b), 46.03.790(e), and 46.03.790(f) are repealed.
28
29

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: HB 315
Negligent Operation of a Tanker, etc.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Environmental Conservation
ERU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The FY 90 effect would also be a zero impact.

Prepared by: Gail Gatton
Division: Administrative Services

Phone: 465-2600
Date: 1/22/90

Approved by Commissioner: [Signature]
Agency: Department of Environmental Conservation

Date: January 22, 1990

Distribution (by preparer):

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

* SECTION 1. AS 46.03 is amended by adding new sections to read:

Sec. 46.03.742. NEGLIGENT OPERATION OF TANK VESSEL. A person commits the crime of negligent operation of a tank vessel when, by operating, navigating, or piloting a tank vessel with criminal negligence, the person creates an unjustifiable risk of a release of a hazardous substance or an unjustifiable risk of harm to a person or property.

Sec. 46.03.743. RECKLESS OPERATION OF TANK VESSEL.

(a) A person commits the crime of reckless operation of a tank vessel when by recklessly operating, navigating, or piloting a tank vessel, the person causes a release of a hazardous substance and the release causes serious physical injury to another person or damage to the property of another.

(b) Reckless operation of a tank vessel is a class C felony.

Sec. 46.03.744. DEFINITIONS. In AS 46.03.742 and AS 46.03.743

(1) "criminal negligence" has the meaning given in AS 11.81.900;

(2) "hazardous substance" has the meaning given in AS 46.03.826;

(3) "recklessly" has the meaning given in AS 11.81.900;

(4) " tank vessel" means

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 315 (Judiciary) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to criminal penalties for negligent operation of a tank vessel, for negligent oil discharge, for failure to comply with an oil discharge contingency plan, for negligent performance or failure to perform a required act relating to the handling of a hazardous waste, and for failure to provide information or providing false information about oil or a hazardous substance when required by law."

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

15

* Section 1. AS 46.03 is amended by adding a new section to read:

16

Sec. 46.03.742. NEGLIGENT OPERATION OF TANK VESSEL. (a) A

17

person commits the crime of negligent operation of a tank vessel when,

18

by operating, navigating, or piloting a tank vessel with criminal

19

negligence, the person ~~creates a risk of~~ ^{actually causes the} release of a hazardous

20

substance and the release ~~could cause~~ ^{actually causes} serious physical injury to

21

another person or damage to the property of another.

22

(b) Negligent operation of a tank vessel is a class ~~C felony~~ ^{A misdemeanor}.

23

(c) In this section,

24

(1) "criminal negligence" has the meaning given in AS 11.-

25

81.900;

26

(2) "hazardous substance" has the meaning given in AS 46.-

27

03.826;

28

(3) "tank vessel" means

29

(A) a vessel that is constructed or adapted to

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 315 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to criminal penalties for negligent
7 operation of a tank vessel, for negligent oil dis-
8 charge, for failure to comply with an oil discharge
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

15 * Section 1. AS 46.03 is amended by adding ~~a~~ new section(s) to read:

16 Sec. 46.03.742. NEGLIGENT OPERATION OF TANK VESSEL. ~~As~~ A
17 person commits the crime of negligent operation of a tank vessel when,
18 by operating, navigating, or piloting a tank vessel with criminal
19 negligence, the person ~~actually causes a release~~ ^{Creates an unjustifiable risk of a release} of a hazardous sub-
20 stance ~~and the release actually causes serious physical injury to~~ ^{or an unjustifiable risk of harm to person or property.}
21 ~~another person or damage to the property of another.~~

22 (b) Negligent operation of a tank vessel is a class A misde-
23 meanor.

24 (b) In this section,

25 (1) "criminal negligence" has the meaning given in AS 11.-
26 81.900;

27 (2) "hazardous substance" has the meaning given in AS 46.-
28 03.826;

29 (3) "tank vessel" means

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

ce
2+B 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.

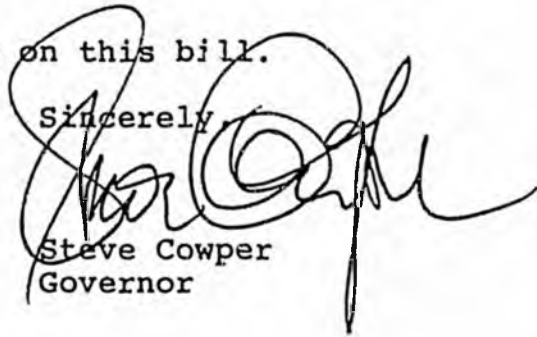
This bill increases the penalty for a negligent oil spill to a class A misdemeanor if the spill is less than 10,000 barrels, and to a class C felony if the spill is 10,000 barrels or more. In addition, the bill makes clear that criminal penalties will be imposed for failure to comply with an oil discharge 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,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely,".

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: HB 315
Negligent Operation of a Tanker, etc.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Environmental Conservation
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The FY 90 effect would also be a zero impact.

Prepared by: Gail Gatton
Division: Administrative Services

Phone: 465-2600
Date: 1/22/90

Approved by Commissioner: *[Signature]*
Agency: Department of Environmental Conservation

Date: January 22, 1990

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date:	Agency Affected: <u>Alaska Court System</u>
Title: <u>An Act providing for criminal penalties for negligent operation of vessel...</u>	BRU: <u>Trial Courts</u>
Sponsor: <u>Rules Committee</u>	Components: _____
Requestor: <u>House Judiciary</u>	

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Jan Strandberg, General Counsel
 Division: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Phone: 264-8228
 Date: 02/16/90
 Date: 02/16/90

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act providing criminal penalties
 for negligent operation of a tank vessel..."
 Sponsor: House Rules/Governor
 Requestor: House Judiciary

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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						
---------	--	--	--	--	--	--

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: January 17, 1990
 Approved by Commissioner: Douglas B. Bailly, Attorney General Date: January 17, 1990
 Agency: Department of Law

Distribution (by preparer):

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

No. 4
CSHB 315 (JUD)
HOUSE 2/27/90

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 315

This bill 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.

This bill also amends AS 46.03.790 by adding a new subsection that provides criminal penalties for negligent oil discharges and for 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, 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.

WPB15

GILMORE & FELDMAN

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

310 K STREET, SUITE 308

ANCHORAGE, ALASKA 99501-2095

JAMES D. GILMORE
JEFFREY M. FELDMAN
BRIAN M. DOHERTY
ERIC A. JOHNSONTELEPHONE
(907) 278-4506TELECOPIER
(907) 278-4807

May 3, 1990

Mr. Wes Coyner
311 Douglas Highway
Juneau, Alaska 99801VIA FAX 465-3922

Dear Wes:

You have provided me with a copy of House Bill 315, which provides, in pertinent part:

Sec. 46.03.742. NEGLIGENT OPERATION OF TANK VESSEL. (a) A person commits the crime of negligent operation of a tank vessel when, by operating, navigating, or piloting a tank vessel with criminal negligence, the person creates a risk of a release of a hazardous substance and the release could cause serious physical injury to another person or damage to the property of another. (Emphasis added.)

"Criminal negligence" is defined in A.S. 11.39.900:

A person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in this situation.

The "result" or "circumstance" described as an offense in proposed A.S. 46.03.742 is the creation of a "risk" of a release of a hazardous substance which "could" cause serious physical injury to another person or damage to the property of another. It does not, as do almost all other felony statutes, require an actual release and actual damage, viz., "criminally negligent homicide", also a Class C felony, requires a homicide, not the "risk of a homicide".

Letter to Wes Coyner
May 3, 1990
Page 2

As drafted, 46.03.742 could be applied to almost any piloting activity. For example, pilots often select anchorage grounds, based on their study of charts and all information available there. Unfortunately, an anchorage ground may have an uncharted rock pinnacle at the precise location of the anchorage. The pilot is unaware of the risk that the uncharted rock exists. Even if the hull of his vessel is not punctured by the pinnacle, and the ship remains untouched, the pilot could be charged with a felony under 46.03.742 because, with "criminal negligence", he created a "risk" which "could" have caused serious injury to persons or property.

Tankers transiting Valdez harbor pass through speed zone limiting the speed of the vessel to 6 knots. Frequently wind and current conditions make compliance with the speed limit very difficult. Yet a departure from the precise speed limit, whether to maintain steerage or not, would arguably "create a risk" which "could" cause serious physical injury to persons or property.

Pilots must make judgment calls before performing almost any navigational maneuver. In hindsight, those judgment calls sometimes are incorrect, even when casualties do not occur. But even if a casualty did not occur, a pilot could be charged and convicted of a felony under A.S. 46.03.742 simply because his conduct created a "risk" which "could" have caused damage.

Proposed A.S. 46.03.742, places enormous discretionary powers in the hands prosecutors, who may be very young, have limited experience, and have no experience with, or knowledge of navigational matters. A.S. 46.03.742 empowers them to evaluate pilot conduct and charge felony offenses for activities about which they have little, or no, knowledge. Poor exercise of prosecutorial discretion has resulted in acquittals in several recent well-publicized cases, including the Captain Hazelwood case. Even if a person charged with a felony is acquitted, he or she has a very difficult time surviving. The costs of defending oneself against a felony are enormous and the damage to one's reputation, in most cases, is permanent.

The answer to the disappointment of the public in a failure to convict Capt. Hazelwood should not be a law that exposes pilots, who are skillful professionals in a hazardous profession, making difficult judgment calls based on a whole host of factors, including wind, currents, ice, foreign crews with foreign speaking crews, etc. to felony prosecution.

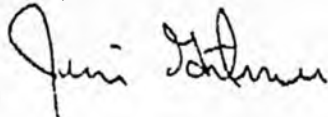
If A.S. 46.03.742 does not pass, pilots do not go unregulated. The Coast Guard has regulated pilots for years as has the State Board of Marine Pilots. The Coast Guard and the Marine Pilot Board possess navigational expertise and are the appropriate bodies to assess pilot conduct. If a pilot is negligent, he is punished.

Letter to Wes Coyner
May 3, 1990
Page 3

His license may be revoked, and he often is sued in civil court.

The Southwest Alaska Pilots Association requests that House Bill 315, or at least the proposed new section for 46.03.742, not pass. Certainly this bill, with potentially far-reaching consequences, should not be passed in the heat of moment at the end of this session. Persons with navigational knowledge and experience should have as much input as possible into any decision made by the legislature to pass an act which could result in criminal felony charges against pilots performing routine piloting functions, making the judgment calls which those functions necessarily entail.

Very truly yours,



James D. Gilmore

JDG/dm