

HB

260

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
JUN 08 2001
SENATE FINANCE
COMMITTEE

DATE: 6/7/01

FURTHER:
DATE TURNED
IN TO OFFICE: 8 June 2001

Finance Committee considered CS FOR HOUSE BILL NO. 260(FIN) am
COMMERCIAL PASSENGER VESSEL REGULATION & FEES

and recommends:

- be replaced with 5 CS CS HB 260 (FIN)
- adopt previous CS CS forthcoming ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:
 same title
 new title
 House Bill:
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DEC	4/20/01	47.0		
→ forthcoming f/n's				
• DOT + PF				
• Law				

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPR

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>			<input checked="" type="checkbox"/>	

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

REPORTED OUT
JUN 08 2001
SENATE FINANCE
COMMITTEE

Fiscal Note Number: _____
Bill Version: SCS CS HB 260(FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____
Title: "An Act relating to marine passenger vessels; and providing for an effective date"
Sponsor: House Finance Committee
Requester: Senate Finance

Dept. Affecte: Environmental Conservation
BRU: Air and Water Quality
Component: Commercial Passenger Vessel Program
Component Number: 2592

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	140.4	140.4	140.4	140.4	140.4	140.4
Travel	10.0	10.0	10.0	10.0	10.0	10.0
Contractual	249.8	444.8	409.8	409.8	409.8	409.8
Supplies	3.0	3.0	3.0	3.0	3.0	3.0
Equipment	13.8	3.0	3.0	3.0	3.0	3.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	417.0	601.2	566.2	566.2	566.2	566.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (Com Ves Env Pl)	481.7	763.0	763.0	784.7	784.7	784.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1166 Commercial Vessel Compliance	417.0	601.2	566.2	566.2	566.2	566.2
TOTAL	417.0	601.2	566.2	566.2	566.2	566.2

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget prop

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Lynn J. Tomich Kent Phone 465-5312
 Division Air and Water Quality Date/Time 6/8/01 11:00 AM
 Approved by: Kurt Fredriksson, Deputy Commissioner Date 6/8/2001
 Agency Department of Environmental Conservation

For distribution information, call the Governor's Legislative Office

Funding for this bill is from the Alaska Commercial Passenger Vessel Coastal Protection Fund created by this legislation. The fund consists of collected fees, legislative appropriations, penalties and earnings on the fund. The revenue projection is based upon the effective dates and payment dates established in the legislation.

Personal Services – 2 positions

One full time Environmental Specialist IV in Juneau will be required to register passenger vessels annually; establish an information management system; coordinate with the USCG, EPA, the public, and the cruise ship industry; contract for facilitator assistance and in consultation with other agencies, the cruise industry and interested persons, develop regulations necessary for implementing the legislation and to develop and implement the superior environmental protection recognition program; complete an assessment report for sewage and graywater by January, 2004; designate areas less than one nautical mile from the nearest shore where treated sewage or graywater may be discharged; evaluate the environmental effects of discharges; and review and approve vessel-specific alternative terms and conditions.

One full time Environmental Engineer Associate I in Juneau will review certifications from each vessel regarding compliance with standard terms and conditions; request and review reports and logbook copies covering information about the release of sewage and graywater; review and approve graywater and sewage sampling techniques and analytical methods; review analytical reports for graywater and sewage; review and approve requests for extensions of the graywater standards and the use of experimental technologies for individual vessels; review immediate reports of violations of effluent standards; conduct compliance reviews and collect and analyze effluent; manage contracts for ambient water monitoring; conduct or manage contracts and review emissions reports for opacity emissions monitoring in Prince William Sound and the Kenai Peninsula; coordinate and evaluate Royal Caribbean funded opacity monitoring in Southeast; provide technical and compliance assistance to the cruise ship industry and the public; contract for assistance in evaluating the environmental impact of discharges; and provide technical assistance to the attorney general's office on any necessary enforcement actions.

Travel

Travel funds are for providing compliance assistance to the cruise ship industry, working with interested parties on development of regulations, the assessment report and development and implementation of the superior environmental protection recognition program and technical/professional training for staff.

Contractual

FY 02 contractual funds cover development of a database to manage and store effluent data received from the cruise ship industry; technical assistance for environmental assessment and risk analysis; ambient water monitoring; effluent monitoring; a facilitator for negotiated rule-making; and advertising, printing, meeting, and mailing costs for public notice of the regulations. FY 03 contractual funds include technical assistance for risk analysis; air emissions opacity readings in Prince William Sound and the Kenai Peninsula; ambient air and water monitoring; effluent monitoring; a reduced level for a facilitator (and elimination of this funding in FY 04); and technical assistance with development and implementation of the superior environmental protection recognition program (the amount is reduced in FY 04 to reflect that ongoing implementation of the program will cost less than initial development of the program). All fiscal years include standard position support costs.

Supplies and Equipment

Supply and equipment funds during FY 02 cover standard office supplies, furnishings and computers for the positions. Equipment funds are reduced in subsequent years.

Personal Services New Position Detail

Department of Environmental Conservation
Fiscal Note Attachment-SCS CSHB 260 (FIN)

Scenario: 02 DEC Fiscal Note Backup (1822)
Component: Commercial Passenger Vessel Program (2592)
BRU Name: Air and Water Quality (206)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range &	Budgeted Count	Split / Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#006	Environmental Spec IV	FT	A	SS	Juneau	1A	20B	12.0	52,500	1,250	0	17,013	70,763

Justification:

To implement CSHB 260(FIN) am.

Funding Detail:

1166	Com Passenger Vessel Env Compliance Fur	100.00%	70,763
Total Funding:		100.00%	70,763

18-#007 Env Eng Associate

FT	A	GG	Juneau	1A	20B	12.0	52,116	620	0	16,916	69,652
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Justification:

To implement CSHB 260(FIN) am.

Funding Detail:

1166	Com Passenger Vessel Env Compliance Fu	100.00%	69,652
Total Funding:		100.00%	69,652

Component Summary:

Total New Positions: 2

Fund Description	Fund Percent	Fund Amount
1166 Com Passenger Vessel Env Compliance Fu	100.00%	140,415
Total Funding:	100.00%	140,415

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column.

JUN 08 2001

SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 260 (FIN) (WDX)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to marine passenger BRU Civil Division
vessels; and providing for an effective date." Component Environmental Law
Sponsor House Finance Committee
Requester Senate Finance Committee Component No. 2092

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	30.3	60.6	60.6	60.6	60.8	60.6
Travel	0.6	2.2	2.2	2.2	2.2	2.2
Contractual	4.7	56.5	56.5	56.5	56.5	56.5
Supplies	0.4	0.8	0.8	0.8	0.8	0.8
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	42.5	120.0	120.0	120.0	120.0	120.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1007 Interagency Receipts	42.5	120.0	120.0	120.0	120.0	120.0
TOTAL	42.5	120.0	120.0	120.0	120.0	120.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides for limitations on discharges of sewage and graywater and for a comprehensive registration, reporting, and monitoring program for cruise ships that would cover wastewater, solid waste, and air emissions. Environmental compliance fees paid by the owners of commercial passenger vessels are intended to allow the program to be self sufficient.

The Department of Law estimates that during FY02 the services of one-quarter of an FTE attorney would be necessary for the regulations development process which will involve negotiated rulemaking and several affected entities, and to provide for enforcement of registration, reporting, and monitoring requirements, collection of fees, and development and defense of alternative terms and conditions.

Using the department's FY02 cost schedule, the cost of one-quarter of an FTE attorney is \$35.4, which includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Direct case costs are not included in the

Prepared by: Joan M. Kasson Phone 465-5370
Division: Attorney General's Office Date/Time 6/8/01 2:51 PM
Approved by: Kathryn Daughhelee for Bruce M. Botelho, Attorney General Date 6/8/01
Agency: Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. SCS CSHB 260 (FIN) (WDIX)

ANALYSIS CONTINUATION

rate, and \$0.5 will be needed for case specific travel, and \$6.5 for one time equipment purchases in FY02.

Once the initial regulations are in place in FY03, we expect that one-half of an FTE attorney and an additional \$49.0 will be needed to provide for investigation and prosecution of violations, including contracting for expert witnesses and case specific travel as well as any additional regulatory revisions needed as delayed applicability sections of the bill come into effect. The cost of these legal services will be funded by a reimbursable services agreement with the Department of Environmental Conservation from fees apportioned on the industry based on the amount of business conducted in Alaska's waters and deposited in the Commercial Passenger Vessel Environmental Compliance Fund, a new fund created by the bill.

JUN 08 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS for CS HB 260(FIN)
() Publish Date: _____

Revision Date/Time: Jun 8, 01 14:00 Dept. Affected: DOT&PF
Title: "An Act requiring the owners or operators of BRU: Marine Highway System
certain commercial passenger vessels..." Component: Southeast and Southwest
Sponsor: House Finance Committee Vessel Operations
Requester: Senate Finance Committee Component Number: 630 & 631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time			1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Captain George Capacci, General Manager Phone 465-3959
Division: Alaska Marine Highway System Date/Time 6/8/01 2:06 PM
Approved by: Joseph L. Perkins, Commissioner Date 6/8/01 2:06 PM
Agency: DOT&PF

For distribution information, call the Governor's Legislative Office

Amended

SENATE FINANCE
COMMITTEE

Amendment Number: #2 + #4
Bill Number: HB 260
Sponsor: Leman Date: 6/8/01
Logged In By: Mindy

AMENDMENT

OFFERED IN SENATE FINANCE:
TO: SCS CS HB 260 Version X

BY: Senator Leman

Page 4, Line 27:

Following "the department"

Delete: shall

Insert:

may

Page 5, Line 8: 7 and Line 10:

Following "the department"

Delete: shall

Insert:

may

Amend #4 clarifies that both lines 7 & 10
are changed
Sen. Leman made - no objection

SENATE FINANCE COMMITTEE

~~2000~~ COMMITTEE ACTION

48101

Bill Number	HB 260		
Amendment	#2 am		
Motion	amend & adopt		
<u>Motion by</u>	Leman		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Senator Wilken			
Senator Austerman			
Senator Green			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

SENATE FINANCE
COMMITTEE
Amendment Number: #1
Bill Number: HB 260
Sponsor: Lemay Date: 6/8/01
Logged In By: Mindy

AMENDMENT

OFFERED IN SENATE FINANCE:
TO: SCS CS HB 260 Version X

BY: Senator Lemay

Page 15, Line 31:

Following "to operate in" insert "marine" waters

Page 16, Line 4:

Following "last voyage in" insert "marine" waters

Page 16, Line 7:

Insert "marine" waters have the meanings given

SENATE FINANCE COMMITTEE

~~2000~~ COMMITTEE ACTION

6/8/01

Bill Number	HB 260		
Amendment	# 1		
Motion	adopt		
<u>Motion by</u>	Leman		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Olson			
Senator Ward			
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

SENATE CS FOR CS FOR HOUSE BILL NO. 260(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to marine passenger vessels; and providing for an effective date."

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

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

4 Article 6A. Commercial Passenger Vessel
5 Environmental Compliance Program.

6 Sec. 46.03.460. Program established. (a) There is established the
7 commercial passenger vessel environmental compliance program providing for

8 (1) terms and conditions of vessel discharges;

9 (2) independent verification of environmental compliance; and

10 (3) allowing the department to monitor and supervise discharges from
11 commercial passenger vessels through a registration system.

12 (b) The department may adopt regulations to carry out the purposes of
13 AS 46.03.460 - 46.03.490. The department shall use negotiated regulation making
14 under AS 44.62.710 - 44.62.800, when appropriate, to develop those regulations.

15 Sec. 46.03.461. Registration requirements. (a) Except as provided in

1 AS 46.03.487, each calendar year in which the owner or operator of a commercial
2 passenger vessel intends to operate, or cause or allow to be operated, the vessel in the
3 marine waters of the state, the owner or operator of the vessel shall register with the
4 department. The registration shall be completed before the time any commercial
5 passenger vessel of the owner or operator enters the marine waters of the state in that
6 calendar year. The registration must include the following information:

7 (1) the vessel owner's business name and, if different, the vessel
8 operator's business name for each commercial passenger vessel of the owner or
9 operator that is scheduled to be in the marine waters of the state during the calendar
10 year;

11 (2) the postal address, electronic mail address, telephone number, and
12 facsimile number for the principal place of each business identified under (1) of this
13 subsection;

14 (3) the name and address of an agent for service of process for each
15 business identified under (1) of this subsection; the owner and operator shall
16 continuously maintain a designated agent for service of process whenever a
17 commercial passenger vessel of the owner or operator is in the marine waters of the
18 state, and the agent must be an individual resident of this state, a domestic corporation,
19 or a foreign corporation having a place of business in and authorized to do business in
20 this state;

21 (4) the name or call sign of and Port of Registry for each of the owner's
22 or operator's vessels that is scheduled either to call upon a port in this state or
23 otherwise to be in the marine waters of the state during the calendar year and after the
24 date of registration; and

25 (5) an agreement to comply with the terms and conditions of vessel
26 discharges specified under AS 46.03.462.

27 (b) Registration under (a) of this section shall be executed under oath by the
28 owner or operator.

29 (c) Upon request of the department, the registrant shall submit registration
30 information required under this section electronically.

31 **Sec. 46.03.462. Terms and conditions of discharges.** (a) An owner or

1 operator required to register under AS 46.03.461 shall comply with either the standard
2 terms and conditions of vessel discharges specified in (b) of this section or the
3 alternative terms and conditions of vessel discharges specified in (c) of this section.

4 (b) The standard terms and conditions of vessel discharges are that the owner
5 or operator

6 (1) may not discharge untreated sewage, treated sewage, or graywater
7 in a manner that violates AS 46.03.463;

8 (2) shall maintain records and provide the reports required under
9 AS 46.03.465(a);

10 (3) shall collect and test samples as required under AS 46.03.465(b)
11 and (d) and provide the reports with respect to those samples required by
12 AS 46.03.475(c);

13 (4) shall report discharges in accordance with AS 46.03.475(a);

14 (5) shall allow the department access to the vessel at the time samples
15 are taken under AS 46.03.465 for purposes of taking the samples or for purposes of
16 verifying the integrity of the sampling process; and

17 (6) shall submit records, notices, and reports to the department in
18 accordance with AS 46.03.475(b), (d), and (e).

19 (c) The department may establish alternative terms and conditions of vessel
20 discharges applicable to an owner or operator of a vessel who cannot practicably
21 comply with the standard terms and conditions of vessel discharges under (b) of this
22 section, or who wishes to use or test alternative environmental protection equipment or
23 procedures. Except as specified in alternative terms and conditions set by the
24 department under this subsection, the alternative terms and conditions of vessel
25 discharges must require compliance with the standard terms and conditions of vessel
26 discharges under (b) of this section. The department, on a case-by-case basis, may set
27 alternative terms and conditions of vessel discharges if

28 (1) the vessel owner or operator demonstrates to the department's
29 reasonable satisfaction that equivalent environmental protection can be attained
30 through other terms or conditions appropriate for the specific configuration or
31 operation of the vessel;

1 (2) the vessel owner or operator agrees to make necessary changes to
 2 the vessel to allow it to comply with the standard terms and conditions of vessel
 3 discharges under (b) of this section but demonstrates to the department's reasonable
 4 satisfaction that additional time is needed to make the necessary changes; or

5 (3) an experimental technology or method for pollution control of a
 6 discharge is being used or is proposed as one of the alternative terms and conditions of
 7 vessel discharges and the department determines that the experimental technology or
 8 method has a reasonable likelihood of success in providing increased protection for
 9 the environment.

10 (d) Alternative terms and conditions of vessel discharges approved by the
 11 department under (c) of this section may, if determined appropriate by the department,
 12 include a waiver by the department of portions of the requirements of AS 46.03.463
 13 and 46.03.465, for the time period that the department determines to be appropriate.

14 **Sec. 46.03.463. Prohibited discharges; limitations on discharges.** (a)
 15 Except as provided in (h) of this section, a person may not discharge untreated sewage
 16 from a commercial passenger vessel into the marine waters of the state.

17 (b) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a
 18 person may not discharge treated sewage from a commercial passenger vessel into the
 19 marine waters of the state that has suspended solids greater than 150 milligrams per
 20 liter or a fecal coliform count greater than 200 colonies per 100 milliliters, except that
 21 the department may, by regulation, adopt a protocol for retesting for fecal coliform, if
 22 this discharge limit for fecal coliform is exceeded, under which a discharger will be
 23 considered to be in compliance with the fecal coliform limit if the geometric mean of
 24 the fecal coliform count in the samples considered under the protocol does not exceed
 25 200 colonies per 100 milliliters. Upon submission by the owner or operator of a small
 26 commercial passenger vessel of a plan for interim protective measures, the department
 27 may extend the time for compliance of that vessel with this subsection. #2

28 (c) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a
 29 person may not discharge graywater from a commercial passenger vessel into the
 30 marine waters of the state that has suspended solids greater than 150 milligrams per
 31 liter or a fecal coliform count greater than 200 colonies per 100 milliliters, except that

1 the department may, by regulation, adopt a protocol for retesting for fecal coliform, if
 2 this discharge limit for fecal coliform is exceeded, under which a discharger will be
 3 considered to be in compliance with the fecal coliform limit if the geometric mean of
 4 the fecal coliform count in the samples considered under the protocol does not exceed
 5 200 colonies per 100 milliliters. Upon submission by the owner or operator of a large
 6 commercial passenger vessel of a plan for interim protective measures, the department
 7 may extend the time for compliance of that vessel with this subsection for a period of
 8 time that ends not later than January 1, 2003. Upon submission by the owner or
 9 operator of a small commercial passenger vessel of a plan for interim protective
 10 measures, the department may extend the time for compliance of that vessel with this
 11 subsection.

12 (d) The department may by regulation establish numeric or narrative standards
 13 for other parameters for sewage and graywater discharged from commercial passenger
 14 vessels. In developing regulations under this subsection, the department shall consider
 15 the best available scientific information on the environmental effects of the regulated
 16 discharges, the materials and substances handled on the vessels, vessel movement
 17 effects, and the availability of new technologies for wastewater.

18 (e) Except as provided in (g) and (h) of this section or under AS 46.03.462(c) -
 19 (d), a person may not discharge any treated sewage or graywater from a large
 20 commercial passenger vessel into the marine waters of the state unless

21 (1) the vessel is underway and proceeding at a speed of not less than
 22 six knots;

23 (2) the vessel is at least one nautical mile from the nearest shore,
 24 except in areas designated by the department;

25 (3) the discharge complies with all applicable vessel effluent standards
 26 established under applicable federal or other law; the standards under applicable
 27 federal or other law may be adopted by regulation by the department; and

28 (4) the vessel is not in an area where the discharge of treated sewage or
 29 graywater is prohibited.

30 (f) Except as provided in (h) of this section, a person may not discharge
 31 sewage from a small commercial passenger vessel unless the sewage has been

1 processed through a properly operated and properly maintained marine sanitation
2 device.

3 (g) The provisions of (e)(1) and (e)(2) of this section do not apply to a
4 discharge allowed under federal law.

5 (h) The provisions of (a) - (f) of this section do not apply to discharges made
6 for the purpose of securing the safety of the commercial passenger vessel or saving
7 life at sea if all reasonable precautions have been taken for the purpose of preventing
8 or minimizing the discharge.

9 **Sec. 46.03.465. Information-gathering requirements.** (a) Except as
10 provided under AS 46.03.462(c) - (d), the owner or operator of a commercial
11 passenger vessel shall maintain records and, upon request of the department, provide
12 to the department a report, with copies of the records related to the period of operation
13 in the marine waters of the state, detailing the dates, times, and locations, and the
14 volumes or flow-rates of any discharge of sewage or graywater into the marine waters
15 of the state.

16 (b) Except as provided under AS 46.03.462(c) - (d), while a commercial
17 passenger vessel is present in the marine waters of the state, the owner or operator of
18 the vessel shall collect routine samples of the vessel's sewage and graywater that is
19 being discharged into the marine waters of the state with a sampling technique
20 approved by the department before the sample is collected. The number of routine
21 samples for each vessel to be collected under this subsection shall be the greater of
22 two per calendar year or the number of samples required to be collected under federal
23 statutes and regulations for sewage or graywater discharges.

24 (c) Except as provided under AS 46.03.462(c) - (d), while a commercial
25 passenger vessel is present in the marine waters of the state, the department, or an
26 independent contractor retained by the department, may collect additional samples of
27 the vessel's sewage and graywater that is being discharged into the marine waters of
28 the state.

29 (d) Except as provided under AS 46.03.462(c) - (d), the owner or operator of a
30 vessel required to collect samples under (b) of this section shall have the samples
31 tested to measure for fecal coliform, ammonia, residual chlorine, pH (degree of acidity

1 or alkalinity), chemical oxygen demand (COD), biochemical oxygen demand (BOD),
2 total suspended solids, and other parameters as required by the department in the
3 samples with an analytical testing method that was approved by the department before
4 the testing is conducted. A laboratory used for testing under this subsection shall
5 agree not to disclose the testing results to any person other than to the department, the
6 United States Coast Guard, or the owner or operator of the vessel.

7 (e) The owner or operator of a commercial passenger vessel shall pay for all
8 routine sampling under (b) of this section and the testing of routine samples. The
9 department shall pay for all additional sampling under (c) of this section and the
10 testing of the additional samples.

11 (f) If the owner or operator of a commercial passenger vessel has, when
12 complying with another state or federal law that requires substantially equivalent
13 information gathering, gathered the type of information required under (a), (b), or (d)
14 of this section, the owner or operator shall be considered to be in compliance with that
15 subsection so long as the information is also provided to the department.

16 **Sec. 46.03.470. Record keeping requirements.** An owner or operator
17 subject to AS 46.03.465 shall record the information required to be gathered under that
18 section and shall maintain the records for three years after the date the information
19 was gathered.

20 **Sec. 46.03.475. Reporting requirements.** (a) An owner or operator of a
21 commercial passenger vessel who becomes aware of a discharge in violation of
22 AS 46.03.463 shall immediately report that discharge to the department. There is no
23 audit report privilege under AS 09.25.450 for this information.

24 (b) If the owner or operator of a commercial passenger vessel operating in the
25 marine waters of the state is required by the Administrator of the Environmental
26 Protection Agency or the secretary of the federal department in which the United
27 States Coast Guard is operating to collect samples and test sewage or graywater and
28 keep records of the sampling and testing, the owner or operator shall, within 21 days
29 after the sewage or graywater is tested, submit to the department a copy of the records.

30 (c) Within 21 days after the testing required under AS 46.03.465(d), the owner
31 or operator shall submit a written report to the department that contains the

1 measurements required under AS 46.03.465(d) and describes the sampling technique
2 and analytical testing methods used. The information in the report required under this
3 subsection may be provided by referring to, and including copies of, other reports that
4 are required by substantially equivalent state or federal reporting requirements.

5 (d) If the owner or operator of a commercial passenger vessel operating in the
6 marine waters of the state is required by the laws of the United States or by the laws of
7 Canada or of a province or territory of Canada to file a report or provide notice of a
8 discharge or offloading of a hazardous waste, as defined in AS 46.03.900, or of a
9 hazardous substance, as defined in AS 46.03.826, that was generated, discharged or
10 offloaded while the vessel was operating in the marine waters of the state, the owner
11 or operator shall submit to the department a copy of the report or notice within 21 days
12 after having provided the report or notice to an agency of the government of the
13 United States or to an agency of the government of Canada or of a province or
14 territory of Canada.

15 (e) Before the operation of a commercial passenger vessel in the marine
16 waters of the state, the owner or operator of the vessel shall provide to the department
17 a plan that describes the vessel's policies and procedures for

18 (1) offloading in this state or disposing into the marine waters of the
19 state of nonhazardous solid waste other than sewage; and

20 (2) offloading of hazardous waste or a hazardous substance from the
21 vessel while it is operating in the marine waters of the state to the extent that the
22 offloading is not covered by (d) of this section.

23 (f) Upon request of the department, the information required under this section
24 shall be submitted electronically.

25 (g) This section does not relieve the owner or operator of a commercial
26 passenger vessel from other applicable reporting requirements of state or federal law.

27 **Sec. 46.03.480. Fees.** (a) There is imposed an environmental compliance fee
28 on each commercial passenger vessel operating in the marine waters of the state.

29 (b) The fee imposed by (a) of this section for all commercial passenger vessels
30 is a separate fee for each voyage during which the commercial passenger vessel
31 operates in the marine waters of the state. The fee shall range from \$.70 to \$1.75 per

1 berth, based on the overnight accommodation capacity of the vessel, determined with
2 reference to the number of lower berths, according to the following categories:

3 (1) \$75 for a commercial passenger vessel with overnight
4 accommodations for at least 50 but not more than 99 passengers for hire;

5 (2) \$175 for a commercial passenger vessel with overnight
6 accommodations for at least 100 but not more than 249 passengers for hire;

7 (3) \$375 for a commercial passenger vessel with overnight
8 accommodations for at least 250 but not more than 499 passengers for hire;

9 (4) \$750 for a commercial passenger vessel with overnight
10 accommodations for at least 500 but not more than 999 passengers for hire;

11 (5) \$1,250 for a commercial passenger vessel with overnight
12 accommodations for at least 1,000 but not more than 1,499 passengers for hire;

13 (6) \$1,750 for a commercial passenger vessel with overnight
14 accommodations for at least 1,500 but not more than 1,999 passengers for hire;

15 (7) \$2,250 for a commercial passenger vessel with overnight
16 accommodations for at least 2,000 but not more than 2,499 passengers for hire;

17 (8) \$2,750 for a commercial passenger vessel with overnight
18 accommodations for at least 2,500 but not more than 2,999 passengers for hire;

19 (9) \$3,250 for a commercial passenger vessel with overnight
20 accommodations for at least 3,000 but not more than 3,499 passengers for hire;

21 (10) \$3,750 for each commercial passenger vessel with overnight
22 accommodations for 3,500 or more passengers for hire.

23 (c) A commercial passenger vessel operating in the marine waters of the state
24 is liable for the fee imposed by this section. The fee is due and payable to the
25 department in the manner and at the times required by the department by regulation.

26 **Sec. 46.03.482. Commercial passenger vessel environmental compliance**
27 **fund.** (a) The commercial passenger vessel environmental compliance fund is created
28 in the general fund.

29 (b) The fund consists of the following, all of which shall be deposited in the
30 fund upon receipt:

31 (1) money received by the department in payment of fees under

1 AS 46.03.480;

2 (2) money received under AS 46.03.760(e) as a result of a violation
3 related to AS 46.03.460 - 46.03.490 unless the money would otherwise be deposited in
4 the oil and hazardous substance release prevention and response fund established by
5 AS 46.08.010;

6 (3) money appropriated to the fund by the legislature;

7 (4) earnings on the fund.

8 (c) The legislature may make appropriations from the fund to the department
9 to pay for the department's operational costs necessary to prepare reports that assess
10 the information received by the department for the cruise ship seasons of 2000, 2001,
11 2002, and 2003 and for the department's operational costs necessary to carry out
12 activities under AS 46.03.460 - 46.03.490 related to commercial passenger vessels.

13 (d) The unexpended and unobligated balance of an appropriation made from
14 the fund to the department for the purposes described in (c) of this section lapses into
15 the fund on December 31 following the end of the period for which the appropriation
16 was made.

17 (e) Nothing in this section creates a dedicated fund.

18 **Sec. 46.03.485. Recognition program.** The department may engage in
19 efforts to encourage and recognize superior environmental protection efforts made by
20 the owners or operators of commercial passenger vessels that exceed the requirements
21 established by law.

22 **Sec. 46.03.487. Exemption for vessels in innocent passage.** AS 46.03.460 -
23 46.03.490 do not apply to a commercial passenger vessel that operates in the marine
24 waters of the state solely in innocent passage. For purposes of this section, a vessel is
25 engaged in innocent passage if its operation in marine waters of the state, regardless of
26 whether the vessel is a United States or foreign-flag vessel, would constitute innocent
27 passage under the

28 (1) Convention on the Territorial Sea and the Contiguous Zone,
29 April 29, 1958, 15 U.S.T. 1606; or

30 (2) United Nations Convention on the Law of the Sea 1982,
31 December 10, 1982, United Nations Publication No. E.83.V.5, 21 I.L.M. 1261 (1982),

1 were the vessel a foreign-flag vessel.

2 **Sec. 46.03.488. Activities of the department.** The department may engage in
3 the following activities related to commercial passenger vessels operating in the
4 marine waters of the state:

5 (1) direct in-water monitoring of discharges of sewage and graywater
6 and direct monitoring of the opacity of air emissions from those vessels;

7 (2) monitoring and studying of direct or indirect environmental effects
8 of those vessels; and

9 (3) researching ways to reduce effects of the vessels on marine waters
10 and other coastal resources.

11 **Sec. 46.03.490. Definitions.** In AS 46.03.460 - 46.03.490,

12 (1) "agent for service of process" means an agent upon whom process,
13 notice, or demand required or allowed by law to be served upon the owner or operator
14 may be served;

15 (2) "commercial passenger vessel" means a vessel that carries
16 passengers for hire, except that "commercial passenger vessel" does not include a
17 vessel

18 (A) that does not provide overnight accommodations for at
19 least 50 passengers for hire, determined with reference to the number of lower
20 berths; or

21 (B) operated by the state, the United States, or a foreign
22 government;

23 (3) "discharge" means any release, however caused, from a
24 commercial passenger vessel, and includes any escape, disposal, spilling, leaking,
25 pumping, emitting, or emptying;

26 (4) "federal cruise ship legislation" means secs. 1401 - 1414 of H.R.
27 5666, incorporated by reference into P.L. 106 - 554, as set out in a note under 33
28 U.S.C. 1901;

29 (5) "fund" means the commercial passenger vessel environmental
30 compliance fund established under AS 46.03.482;

31 (6) "graywater" means galley, dishwasher, bath, and laundry waste

1 water;

2 (7) "large commercial passenger vessel" means a commercial
3 passenger vessel that provides overnight accommodations for 250 or more passengers
4 for hire, determined with reference to the number of lower berths;

5 (8) "marine waters of the state" means all waters within the boundaries
6 of the state together with all of the waters of the Alexander Archipelago even if not
7 within the boundaries of the state;

8 (9) "offloading" means the removal of a hazardous substance,
9 hazardous waste, or nonhazardous solid waste from a commercial passenger vessel
10 onto or into a controlled storage, processing, or disposal facility or treatment works;

11 (10) "passengers for hire" means vessel passengers for whom
12 consideration is contributed as a condition of carriage on the vessel, whether directly
13 or indirectly flowing to the owner, charterer, operator, agent, or any other person
14 having an interest in the vessel;

15 (11) "sewage" means human body wastes and the wastes from toilets
16 and other receptacles intended to receive or retain human body waste;

17 (12) "small commercial passenger vessel" means a commercial
18 passenger vessel that provides overnight accommodations for 249 or fewer passengers
19 for hire, determined with reference to the number of lower berths;

20 (13) "treated sewage" means sewage that meets all applicable effluent
21 limitation standards and processing requirements of 33 U. S. C. 1251 - 1376 (Federal
22 Water Pollution Control Act), as amended, the federal cruise ship legislation, and
23 regulations adopted under 33 U.S.C. 1251 - 1376 or under the federal cruise ship
24 legislation;

25 (14) "untreated sewage" means sewage that is not treated sewage;

26 (15) "vessel" means any form or manner of watercraft, other than a
27 seaplane on the water, whether or not capable of self-propulsion;

28 (16) "voyage" means a vessel trip to or from one or more ports of call
29 in the state with the majority of the passengers for hire completing the entire vessel
30 trip; a vessel trip involving stops at more than one port of call is considered a single
31 voyage so long as the majority of passengers for hire complete the entire trip;

1 (17) "waters of the Alexander Archipelago" means all waters under the
 2 sovereignty of the United States within or near Southeast Alaska, beginning at a point
 3 58 degrees 11 minutes 41 seconds North, 136 degrees 39 minutes 25 seconds West
 4 (near Cape Spencer Light), thence southeasterly along a line three nautical miles
 5 seaward of the baseline from which the breadth of the territorial sea is measured in the
 6 Pacific Ocean and the Dixon Entrance, except where this line intersects geodesics
 7 connecting the following five pairs of points: (A) 58 degrees 05 minutes 17 seconds
 8 North, 136 degrees 33 minutes 49 seconds West and 58 degrees 11 minutes 41
 9 second; North, 136 degrees 39 minutes 25 seconds West (Cross Sound); (B) 56
 10 degrees 09 minutes 40 seconds North, 134 degrees 40 minutes 00 seconds West and
 11 55 degree: 49 minutes 15 seconds North, 134 degrees 17 minutes 40 seconds West
 12 (Chatham Strait); (C) 55 degrees 49 minutes 15 seconds North, 134 degrees 17
 13 minutes 40 seconds West and 55 degrees 50 minutes 30 seconds North, 133 degrees
 14 54 minutes 15 seconds West (Sumner Strait); (D) 54 degrees 41 minutes 30 seconds
 15 North, 132 degrees 01 minutes 00 seconds West and 54 degrees 51 minutes 30
 16 seconds North, 131 degrees 20 minutes 45 seconds West (Clarence Strait); (E) 54
 17 degrees 51 minutes 30 seconds North, 131 degrees 20 minutes 45 seconds West and
 18 54 degrees 46 minutes 15 seconds North, 130 degrees 52 minutes 00 seconds West
 19 (Revillagigedo Channel); the portion of each such geodesic situated beyond three
 20 nautical miles from the baseline from which the breadth of the territorial sea is
 21 measured forms the outer limit of the waters of the Alexander Archipelago in those
 22 five locations.

23 * Sec. 2. AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

24 (XX) receipts described in AS 46.03.482(b)(1) and (2) received
 25 under the commercial passenger vessel environmental compliance program;

26 * Sec. 3. AS 46.03.760(e) is amended to read:

27 (e) A person who violates or causes or permits to be violated a provision of
 28 AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475 [AS 46.03.250 - 46.03.314],
 29 AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or
 30 acceptance, or term or condition of a permit, approval, or acceptance issued under
 31 AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475, [AS 46.03.250 - 46.03.314] or

1 AS 46.14 is liable, in a civil action, to the state for a sum to be assessed by the court of
 2 not less than \$500 nor more than \$100,000 for the initial violation, nor more than
 3 \$10,000 for each day after that on which the violation continues, and that shall reflect,
 4 when applicable,

5 (1) reasonable compensation in the nature of liquidated damages for
 6 any adverse environmental effects caused by the violation, that shall be determined by
 7 the court according to the toxicity, degradability and dispersal characteristics of the
 8 substance discharged, the sensitivity of the receiving environment, and the degree to
 9 which the discharge degrades existing environmental quality; for a violation relating to
 10 AS 46.14, the court, in making its determination under this paragraph, shall also
 11 consider the degree to which the discharge causes harm to persons or property; for a
 12 violation of AS 46.03.463, the court, in making its determination under this
 13 paragraph, shall also consider the volume of the graywater or sewage discharged;
 14 this paragraph may not be construed to limit the right of parties other than the state to
 15 recover for personal injuries or damage to their property;

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

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

20 (4) the need for an enhanced civil penalty to deter future
 21 noncompliance.

22 * Sec. 4. AS 46.03.790(a) is amended to read:

23 (a) Except as provided in (d) of this section, a person is guilty of a class A
 24 misdemeanor if the person with criminal negligence

25 (1) violates a provision of this chapter, AS 46.04, AS 46.09, or
 26 AS 46.14, a regulation or order of the department, or a permit, approval, or
 27 acceptance, or a term or condition of a permit, approval, or acceptance issued under
 28 this chapter, AS 46.04, AS 46.09, or AS 46.14;

29 (2) fails to provide information or provides false information required
 30 by AS 46.03.465, 46.03.475, 46.03.755, AS 46.04, or AS 46.09, or by a regulation
 31 adopted by the department under AS 46.03.460, 46.03.755 [AS 46.03.755], AS 46.04,

1 or AS 46.09;

2 (3) makes a false statement or representation in an application, label,
3 manifest, record, report, permit, or other document filed, maintained, or used for
4 purposes of compliance with AS 46.03.250 - 46.03.313 [AS 46.03.250 - 46.03.314]
5 applicable to hazardous wastes or a regulation adopted by the department under
6 AS 46.03.250 - 46.03.313 [AS 46.03.250 - 46.03.314];

7 (4) makes a false statement, representation, or certification in an
8 application, notice, record, report, permit, or other document filed, maintained, or used
9 for purposes of compliance with AS 46.03.460 - 46.03.475, AS 46.14, or a regulation
10 adopted under AS 46.03.460 or AS 46.14; or

11 (5) renders inaccurate a monitoring device or method required to be
12 maintained under AS 46.14, a regulation adopted under AS 46.14, or a permit issued
13 by the department or a local air quality control program under AS 46.14.

14 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 APPLICABILITY OF REPORTING REQUIREMENTS. (a) Notwithstanding
17 AS 46.03.46^{*}, enacted by sec. 1 of this Act, the first registration required under
18 AS 46.03.461(a) for the owner or operator of a commercial passenger vessel that is subject to
19 that section and is in the marine waters of the state on July 1, 2001, is 11:59 p.m., Alaska
20 Daylight Time, on July 3, 2001.

21 (b) The information-gathering and record keeping requirements of AS 46.03.465 and
22 46.03.470, enacted by sec. 1 of this Act, apply on and after July 1, 2001. The first report that
23 is due under AS 46.03.475(b) - (f), enacted by sec. 1 of this Act, is due August 21, 2001.

24 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 TRANSITION: INITIAL IMPLEMENTATION OF FEES. (a) For a commercial
27 passenger vessel voyage occurring on or after July 1, 2001, and before the effective date of
28 regulations adopted by the department under AS 46.03.480, enacted by sec. 1 of this Act,
29 providing for payment of the environmental compliance fee the environmental compliance
30 fee required by AS 46.03.480, enacted by sec. 1 of this Act, for each voyage during which the
31 commercial passenger vessel is scheduled to operate in the marine waters of this state, is due #1

1 and payable to the department on or before July 31 of the calendar year in which the voyage is
 2 scheduled to occur. An additional amount owed under this subsection because of an
 3 unscheduled voyage, or a refund request under this subsection because of a cancelled voyage,
 4 shall be submitted to the department within 30 days after the vessel's last voyage in the marine
 5 waters of the state in that calendar year.

6 (b) In this section, "commercial passenger vessel," "department," "marine waters of
 7 the state," and "voyage" have the meanings given in AS 46.03.490, enacted by sec. 1 of this
 8 Act.

9 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
 10 read:

11 DELAYED APPLICABILITY TO SMALLER VESSELS. (a) Notwithstanding
 12 sec. 11 of this Act, AS 46.03.463(a) - (d) and 46.03.480, enacted by sec. 1 of this Act, do not
 13 apply until January 1, 2004, in the case of small commercial passenger vessels.

14 (b) In this section, "small commercial passenger vessel" has the meaning given in
 15 AS 46.03.490, enacted by sec. 1 of this Act.

16 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
 17 read:

18 ASSESSMENT REPORTS. (a) By December 1, 2002, the department shall submit to
 19 the governor a report that assesses the information received by the department for the cruise
 20 ship seasons of 2000, 2001, and 2002 related to small commercial passenger vessels. The
 21 report must include

22 (1) a characterization, to the extent possible, of the risks to the marine and
 23 human environments posed by the discharge of sewage and graywater from small commercial
 24 passenger vessels;

25 (2) evaluation of the sewage and graywater treatment systems and
 26 technologies on the vessels, including an evaluation of whether small commercial passenger
 27 vessels should be made subject to the requirements of AS 46.03.463(e) on and after January 1,
 28 2004; and

29 (3) recommendations for future action by the state in relation to matters
 30 discussed in the report.

31 (b) By January 15, 2004, the Department of Environmental Conservation shall submit

1 to the governor a report that assesses the information received by the department for the cruise
2 ship seasons of 2000, 2001, 2002, and 2003 related to commercial passenger vessels. The
3 report must include

4 (1) a characterization, to the extent possible, of the risks to the marine and
5 human environments posed by the discharge of sewage and graywater from commercial
6 passenger vessels;

7 (2) evaluation of the sewage and graywater treatment systems and
8 technologies on the vessels; and

9 (3) recommendations for future action by the state in relation to the matters
10 discussed in the report.

11 (c) While producing the assessments required under this section, the department shall
12 consult its own records, appropriate federal agencies, owners and operators of passenger and
13 other vessels, affected parties, and other appropriate sources of information.

14 (d) The department shall notify the legislature when the reports required under this
15 section have been submitted to the governor.

16 (e) In this section,

17 (1) "commercial passenger vessel" has the meaning given in AS 46.03.490,
18 enacted by sec. 1 of this Act;

19 (2) "department" means the Department of Environmental Conservation;

20 (3) "small commercial passenger vessel" has the meaning given in
21 AS 46.03.490, enacted by sec. 1 of this Act.

22 * Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **TRANSITION: REGULATIONS.** Notwithstanding sec. 11 of this Act, the
25 Department of Environmental Conservation may immediately proceed to adopt regulations
26 necessary to implement this Act. A regulation adopted under this section takes effect under
27 AS 44.62 (Administrative Procedure Act) but not before the effective date of the statutory
28 provision implemented by the regulation.

29 * Sec. 10. Section 9 of this Act takes effect immediately under AS 01.10.070(c).

30 * Sec. 11. Except as provided in sec. 10 of this Act, this Act takes effect July 1, 2001.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 8 June 2001 TIME: 11:15 am

TO: Legal

NUMBER OF PAGES, INCLUDING COVER SHEET: 3

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final SCS CS HB 260
22-LS0948\ X 6/7/01
plus 2 attached amendments

Thanks
Mindy

SENATE FINANCE
COMMITTEE

Amendment Number: #3
Bill Number: HB 260
Sponsor: Olson Date: 4/8/01
Logged In By: Mindy

AMENDMENT #

OFFERED IN THE SENATE (version x)
TO: CS for CS HB 260 (FRA)^{am}

By: Olson

Page 10, line ⁹~~14~~ after "department's":

Delete:

operational

Page 10, line ¹¹~~16~~ after "department's":

Delete:

operational

SENATE FINANCE COMMITTEE
~~2000~~ **COMMITTEE ACTION**

6/8/01

Bill Number	HB 260		
Amendment	#3		
Motion	adpt		
<u>Motion by</u>	Olson		
<u>Objection by</u>	Kelly		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Ward			✓
Senator Wilken			✓
Senator Austerman	✓		
Senator Green		—	
Senator Hoffman	✓		
Senator Lemam	✓		
Senator Olson	✓		
Co-Chair Donley			✓
Co-Chair Kelly			✓
<u>Tally</u>			
Yea	4		
Nay	4		
Absent	1		
MOTION	FAIL		

22-LS0948\X
Lauterbach
6/7/01

SENATE CS FOR CS FOR HOUSE BILL NO. 260()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SPECIAL SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to marine passenger vessels; and providing for an effective date."

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

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

4 Article 6A. Commercial Passenger Vessel

5 Environmental Compliance Program.

6 Sec. 46.03.460. Program established. (a) There is established the
7 commercial passenger vessel environmental compliance program providing for

8 (1) terms and conditions of vessel discharges;

9 (2) independent verification of environmental compliance; and

10 (3) allowing the department to monitor and supervise discharges from
11 commercial passenger vessels through a registration system.

12 (b) The department may adopt regulations to carry out the purposes of
13 AS 46.03.460 - 46.03.490. The department shall use negotiated regulation making
14 under AS 44.62.710 - 44.62.800, when appropriate, to develop those regulations.

15 Sec. 46.03.461. Registration requirements. (a) Except as provided in

1 AS 46.03.487, each calendar year in which the owner or operator of a commercial
2 passenger vessel intends to operate, or cause or allow to be operated, the vessel in the
3 marine waters of the state, the owner or operator of the vessel shall register with the
4 department. The registration shall be completed before the time any commercial
5 passenger vessel of the owner or operator enters the marine waters of the state in that
6 calendar year. The registration must include the following information:

7 (1) the vessel owner's business name and, if different, the vessel
8 operator's business name for each commercial passenger vessel of the owner or
9 operator that is scheduled to be in the marine waters of the state during the calendar
10 year;

11 (2) the postal address, electronic mail address, telephone number, and
12 facsimile number for the principal place of each business identified under (1) of this
13 subsection;

14 (3) the name and address of an agent for service of process for each
15 business identified under (1) of this subsection; the owner and operator shall
16 continuously maintain a designated agent for service of process whenever a
17 commercial passenger vessel of the owner or operator is in the marine waters of the
18 state, and the agent must be an individual resident of this state, a domestic corporation,
19 or a foreign corporation having a place of business in and authorized to do business in
20 this state;

21 (4) the name or call sign of and Port of Registry for each of the owner's
22 or operator's vessels that is scheduled either to call upon a port in this state or
23 otherwise to be in the marine waters of the state during the calendar year and after the
24 date of registration; and

25 (5) an agreement to comply with the terms and conditions of vessel
26 discharges specified under AS 46.03.462.

27 (b) Registration under (a) of this section shall be executed under oath by the
28 owner or operator.

29 (c) Upon request of the department, the registrant shall submit registration
30 information required under this section electronically.

31 **Sec. 46.03.462. Terms and conditions of discharges.** (a) An owner or

1 operator required to register under AS 46.03.461 shall comply with either the standard
2 terms and conditions of vessel discharges specified in (b) of this section or the
3 alternative terms and conditions of vessel discharges specified in (c) of this section.

4 (b) The standard terms and conditions of vessel discharges are that the owner
5 or operator

6 (1) may not discharge untreated sewage, treated sewage, or graywater
7 in a manner that violates AS 46.03.463;

8 (2) shall maintain records and provide the reports required under
9 AS 46.03.465(a);

10 (3) shall collect and test samples as required under AS 46.03.465(b)
11 and (d) and provide the reports with respect to those samples required by
12 AS 46.03.475(c);

13 (4) shall report discharges in accordance with AS 46.03.475(a);

14 (5) shall allow the department access to the vessel at the time samples
15 are taken under AS 46.03.465 for purposes of taking the samples or for purposes of
16 verifying the integrity of the sampling process; and

17 (6) shall submit records, notices, and reports to the department in
18 accordance with AS 46.03.475(b), (d), and (e).

19 (c) The department may establish alternative terms and conditions of vessel
20 discharges applicable to an owner or operator of a vessel who cannot practicably
21 comply with the standard terms and conditions of vessel discharges under (b) of this
22 section, or who wishes to use or test alternative environmental protection equipment or
23 procedures. Except as specified in alternative terms and conditions set by the
24 department under this subsection, the alternative terms and conditions of vessel
25 discharges must require compliance with the standard terms and conditions of vessel
26 discharges under (b) of this section. The department, on a case-by-case basis, may set
27 alternative terms and conditions of vessel discharges if

28 (1) the vessel owner or operator demonstrates to the department's
29 reasonable satisfaction that equivalent environmental protection can be attained
30 through other terms or conditions appropriate for the specific configuration or
31 operation of the vessel;

1 (2) the vessel owner or operator agrees to make necessary changes to
2 the vessel to allow it to comply with the standard terms and conditions of vessel
3 discharges under (b) of this section but demonstrates to the department's reasonable
4 satisfaction that additional time is needed to make the necessary changes; or

5 (3) an experimental technology or method for pollution control of a
6 discharge is being used or is proposed as one of the alternative terms and conditions of
7 vessel discharges and the department determines that the experimental technology or
8 method has a reasonable likelihood of success in providing increased protection for
9 the environment.

10 (d) Alternative terms and conditions of vessel discharges approved by the
11 department under (c) of this section may, if determined appropriate by the department,
12 include a waiver by the department of portions of the requirements of AS 46.03.463
13 and 46.03.465, for the time period that the department determines to be appropriate.

14 **Sec. 46.03.463. Prohibited discharges; limitations on discharges.** (a)
15 Except as provided in (h) of this section, a person may not discharge untreated sewage
16 from a commercial passenger vessel into the marine waters of the state.

17 (b) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a
18 person may not discharge treated sewage from a commercial passenger vessel into the
19 marine waters of the state that has suspended solids greater than 150 milligrams per
20 liter or a fecal coliform count greater than 200 colonies per 100 milliliters, except that
21 the department may, by regulation, adopt a protocol for retesting for fecal coliform, if
22 this discharge limit for fecal coliform is exceeded, under which a discharger will be
23 considered to be in compliance with the fecal coliform limit if the geometric mean of
24 the fecal coliform count in the samples considered under the protocol does not exceed
25 200 colonies per 100 milliliters. Upon submission by the owner or operator of a small
26 commercial passenger vessel of a plan for interim protective measures, the department
27 shall extend the time for compliance of that vessel with this subsection.

28 (c) Except as provided in (h) of this section or under AS 46.03.462(c) - (d), a
29 person may not discharge graywater from a commercial passenger vessel into the
30 marine waters of the state that has suspended solids greater than 150 milligrams per
31 liter or a fecal coliform count greater than 200 colonies per 100 milliliters, except that

1 the department may, by regulation, adopt a protocol for retesting for fecal coliform. if
2 this discharge limit for fecal coliform is exceeded, under which a discharger will be
3 considered to be in compliance with the fecal coliform limit if the geometric mean of
4 the fecal coliform count in the samples considered under the protocol does not exceed
5 200 colonies per 100 milliliters. Upon submission by the owner or operator of a large
6 commercial passenger vessel of a plan for interim protective measures, the department
7 shall extend the time for compliance of that vessel with this subsection for a period of
8 time that ends not later than January 1, 2003. Upon submission by the owner or
9 operator of a small commercial passenger vessel of a plan for interim protective
10 measures, the department shall extend the time for compliance of that vessel with this
11 subsection.

12 (d) The department may by regulation establish numeric or narrative standards
13 for other parameters for sewage and graywater discharged from commercial passenger
14 vessels. In developing regulations under this subsection, the department shall consider
15 the best available scientific information on the environmental effects of the regulated
16 discharges, the materials and substances handled on the vessels, vessel movement
17 effects, and the availability of new technologies for wastewater.

18 (e) Except as provided in (g) and (h) of this section or under AS 46.03.462(c) -
19 (d), a person may not discharge any treated sewage or graywater from a large
20 commercial passenger vessel into the marine waters of the state unless

21 (1) the vessel is underway and proceeding at a speed of not less than
22 six knots;

23 (2) the vessel is at least one nautical mile from the nearest shore,
24 except in areas designated by the department;

25 (3) the discharge complies with all applicable vessel effluent standards
26 established under applicable federal or other law; the standards under applicable
27 federal or other law may be adopted by regulation by the department; and

28 (4) the vessel is not in an area where the discharge of treated sewage or
29 graywater is prohibited.

30 (f) Except as provided in (h) of this section, a person may not discharge
31 sewage from a small commercial passenger vessel unless the sewage has been

1 processed through a properly operated and properly maintained marine sanitation
2 device.

3 (g) The provisions of (e)(1) and (e)(2) of this section do not apply to a
4 discharge allowed under federal law.

5 (h) The provisions of (a) - (f) of this section do not apply to discharges made
6 for the purpose of securing the safety of the commercial passenger vessel or saving
7 life at sea if all reasonable precautions have been taken for the purpose of preventing
8 or minimizing the discharge.

9 **Sec. 46.03.465. Information-gathering requirements.** (a) Except as
10 provided under AS 46.03.462(c) - (d), the owner or operator of a commercial
11 passenger vessel shall maintain records and, upon request of the department, provide
12 to the department a report, with copies of the records related to the period of operation
13 in the marine waters of the state, detailing the dates, times, and locations, and the
14 volumes or flow-rates of any discharge of sewage or graywater into the marine waters
15 of the state.

16 (b) Except as provided under AS 46.03.462(c) - (d), while a commercial
17 passenger vessel is present in the marine waters of the state, the owner or operator of
18 the vessel shall collect routine samples of the vessel's sewage and graywater that is
19 being discharged into the marine waters of the state with a sampling technique
20 approved by the department before the sample is collected. The number of routine
21 samples for each vessel to be collected under this subsection shall be the greater of
22 two per calendar year or the number of samples required to be collected under federal
23 statutes and regulations for sewage or graywater discharges.

24 (c) Except as provided under AS 46.03.462(c) - (d), while a commercial
25 passenger vessel is present in the marine waters of the state, the department, or an
26 independent contractor retained by the department, may collect additional samples of
27 the vessel's sewage and graywater that is being discharged into the marine waters of
28 the state.

29 (d) Except as provided under AS 46.03.462(c) - (d), the owner or operator of a
30 vessel required to collect samples under (b) of this section shall have the samples
31 tested to measure for fecal coliform, ammonia, residual chlorine, pH (degree of acidity

1 or alkalinity), chemical oxygen demand (COD), biochemical oxygen demand (BOD),
2 total suspended solids, and other parameters as required by the department in the
3 samples with an analytical testing method that was approved by the department before
4 the testing is conducted. A laboratory used for testing under this subsection shall
5 agree not to disclose the testing results to any person other than to the department, the
6 United States Coast Guard, or the owner or operator of the vessel.

7 (e) The owner or operator of a commercial passenger vessel shall pay for all
8 routine sampling under (b) of this section and the testing of routine samples. The
9 department shall pay for all additional sampling under (c) of this section and the
10 testing of the additional samples.

11 (f) If the owner or operator of a commercial passenger vessel has, when
12 complying with another state or federal law that requires substantially equivalent
13 information gathering, gathered the type of information required under (a), (b), or (d)
14 of this section, the owner or operator shall be considered to be in compliance with that
15 subsection so long as the information is also provided to the department.

16 **Sec. 46.03.470. Record keeping requirements.** An owner or operator
17 subject to AS 46.03.465 shall record the information required to be gathered under that
18 section and shall maintain the records for three years after the date the information
19 was gathered.

20 **Sec. 46.03.475. Reporting requirements.** (a) An owner or operator of a
21 commercial passenger vessel who becomes aware of a discharge in violation of
22 AS 46.03.463 shall immediately report that discharge to the department. There is no
23 audit report privilege under AS 09.25.450 for this information.

24 (b) If the owner or operator of a commercial passenger vessel operating in the
25 marine waters of the state is required by the Administrator of the Environmental
26 Protection Agency or the secretary of the federal department in which the United
27 States Coast Guard is operating to collect samples and test sewage or graywater and
28 keep records of the sampling and testing, the owner or operator shall, within 21 days
29 after the sewage or graywater is tested, submit to the department a copy of the records.

30 (c) Within 21 days after the testing required under AS 46.03.465(d), the owner
31 or operator shall submit a written report to the department that contains the

1 measurements required under AS 46.03.465(d) and describes the sampling technique
2 and analytical testing methods used. The information in the report required under this
3 subsection may be provided by referring to, and including copies of, other reports that
4 are required by substantially equivalent state or federal reporting requirements.

5 (d) If the owner or operator of a commercial passenger vessel operating in the
6 marine waters of the state is required by the laws of the United States or by the laws
7 of Canada or of a province or territory of Canada to file a report or provide notice of a
8 discharge or offloading of a hazardous waste, as defined in AS 46.03.900, or of a
9 hazardous substance, as defined in AS 46.03.826, that was generated, discharged, or
10 offloaded while the vessel was operating in the marine waters of the state, the owner
11 or operator shall submit to the department a copy of the report or notice within 21 days
12 after having provided the report or notice to an agency of the government of the
13 United States or to an agency of the government of Canada or of a province or
14 territory of Canada.

15 (e) Before the operation of a commercial passenger vessel in the marine
16 waters of the state, the owner or operator of the vessel shall provide to the department
17 a plan that describes the vessel's policies and procedures for

18 (1) offloading in this state or disposing into the marine waters of the
19 state of nonhazardous solid waste other than sewage; and

20 (2) offloading of hazardous waste or a hazardous substance from the
21 vessel while it is operating in the marine waters of the state to the extent that the
22 offloading is not covered by (d) of this section.

23 (f) Upon request of the department, the information required under this section
24 shall be submitted electronically.

25 (g) This section does not relieve the owner or operator of a commercial
26 passenger vessel from other applicable reporting requirements of state or federal law.

27 **Sec. 46.03.480. Fees.** (a) There is imposed an environmental compliance fee
28 on each commercial passenger vessel operating in the marine waters of the state.

29 (b) The fee imposed by (a) of this section for all commercial passenger vessels
30 is a separate fee for each voyage during which the commercial passenger vessel
31 operates in the marine waters of the state. The fee shall range from \$.70 to \$1.75 per

1 berth, based on the overnight accommodation capacity of the vessel, determined with
2 reference to the number of lower berths, according to the following categories:

3 (1) \$75 for a commercial passenger vessel with overnight
4 accommodations for at least 50 but not more than 99 passengers for hire;

5 (2) \$175 for a commercial passenger vessel with overnight
6 accommodations for at least 100 but not more than 249 passengers for hire;

7 (3) \$375 for a commercial passenger vessel with overnight
8 accommodations for at least 250 but not more than 499 passengers for hire;

9 (4) \$750 for a commercial passenger vessel with overnight
10 accommodations for at least 500 but not more than 999 passengers for hire;

11 (5) \$1,250 for a commercial passenger vessel with overnight
12 accommodations for at least 1,000 but not more than 1,499 passengers for hire;

13 (6) \$1,750 for a commercial passenger vessel with overnight
14 accommodations for at least 1,500 but not more than 1,999 passengers for hire;

15 (7) \$2,250 for a commercial passenger vessel with overnight
16 accommodations for at least 2,000 but not more than 2,499 passengers for hire;

17 (8) \$2,750 for a commercial passenger vessel with overnight
18 accommodations for at least 2,500 but not more than 2,999 passengers for hire;

19 (9) \$3,250 for a commercial passenger vessel with overnight
20 accommodations for at least 3,000 but not more than 3,499 passengers for hire;

21 (10) \$3,750 for each commercial passenger vessel with overnight
22 accommodations for 3,500 or more passengers for hire.

23 (c) A commercial passenger vessel operating in the marine waters of the state
24 is liable for the fee imposed by this section. The fee is due and payable to the
25 department in the manner and at the times required by the department by regulation.

26 **Sec. 46.03.482. Commercial passenger vessel environmental compliance**
27 **fund.** (a) The commercial passenger vessel environmental compliance fund is created
28 in the general fund.

29 (b) The fund consists of the following, all of which shall be deposited in the
30 fund upon receipt:

31 (1) money received by the department in payment of fees under

1 AS 46.03.480;

2 (2) money received under AS 46.03.760(e) as a result of a violation
3 related to AS 46.03.460 - 46.03.490 unless the money would otherwise be deposited in
4 the oil and hazardous substance release prevention and response fund established by
5 AS 46.08.010;

6 (3) money appropriated to the fund by the legislature;

7 (4) earnings on the fund.

8 (c) The legislature may make appropriations from the fund to the department
9 to pay for the department's operational costs necessary to prepare reports that assess
10 the information received by the department for the cruise ship seasons of 2000, 2001,
11 2002, and 2003 and for the department's operational costs necessary to carry out
12 activities under AS 46.03.460 - 46.03.490 related to commercial passenger vessels.

13 (d) The unexpended and unobligated balance of an appropriation made from
14 the fund to the department for the purposes described in (c) of this section lapses into
15 the fund on December 31 following the end of the period for which the appropriation
16 was made.

17 (e) Nothing in this section creates a dedicated fund.

18 **Sec. 46.03.485. Recognition program.** The department may engage in
19 efforts to encourage and recognize superior environmental protection efforts made by
20 the owners or operators of commercial passenger vessels that exceed the requirements
21 established by law.

22 **Sec. 46.03.487. Exemption for vessels in innocent passage.** AS 46.03.460 -
23 46.03.490 do not apply to a commercial passenger vessel that operates in the marine
24 waters of the state solely in innocent passage. For purposes of this section, a vessel is
25 engaged in innocent passage if its operation in marine waters of the state, regardless of
26 whether the vessel is a United States or foreign-flag vessel, would constitute innocent
27 passage under the

28 (1) Convention on the Territorial Sea and the Contiguous Zone,
29 April 29, 1958, 15 U.S.T. 1606; or

30 (2) United Nations Convention on the Law of the Sea 1982,
31 December 10, 1982, United Nations Publication No. E.83.V.5, 21 I.L.M. 1261 (1982),

1 were the vessel a foreign-flag vessel.

2 **Sec. 46.03.488. Activities of the department.** The department may engage in
3 the following activities related to commercial passenger vessels operating in the
4 marine waters of the state:

5 (1) direct in-water monitoring of discharges of sewage and graywater
6 and direct monitoring of the opacity of air emissions from those vessels;

7 (2) monitoring and studying of direct or indirect environmental effects
8 of those vessels; and

9 (3) researching ways to reduce effects of the vessels on marine waters
10 and other coastal resources.

11 **Sec. 46.03.490. Definitions.** In AS 46.03.460 - 46.03.490,

12 (1) "agent for service of process" means an agent upon whom process,
13 notice, or demand required or allowed by law to be served upon the owner or operator
14 may be served;

15 (2) "commercial passenger vessel" means a vessel that carries
16 passengers for hire, except that "commercial passenger vessel" does not include a
17 vessel

18 (A) that does not provide overnight accommodations for at
19 least 50 passengers for hire, determined with reference to the number of lower
20 berths; or

21 (B) operated by the state, the United States, or a foreign
22 government;

23 (3) "discharge" means any release, however caused, from a
24 commercial passenger vessel, and includes any escape, disposal, spilling, leaking,
25 pumping, emitting, or emptying;

26 (4) "federal cruise ship legislation" means secs. 1401 - 1414 of H.R.
27 5666, incorporated by reference into P.L. 106 - 554, as set out in a note under 33
28 U.S.C. 1901;

29 (5) "fund" means the commercial passenger vessel environmental
30 compliance fund established under AS 46.03.482;

31 (6) "graywater" means galley, dishwasher, bath, and laundry waste

1 water;

2 (7) "large commercial passenger vessel" means a commercial
3 passenger vessel that provides overnight accommodations for 250 or more passengers
4 for hire, determined with reference to the number of lower berths;

5 (8) "marine waters of the state" means all waters within the boundaries
6 of the state together with all of the waters of the Alexander Archipelago even if not
7 within the boundaries of the state;

8 (9) "offloading" means the removal of a hazardous substance,
9 hazardous waste, or nonhazardous solid waste from a commercial passenger vessel
10 onto or into a controlled storage, processing, or disposal facility or treatment works;

11 (10) "passengers for hire" means vessel passengers for whom
12 consideration is contributed as a condition of carriage on the vessel, whether directly
13 or indirectly flowing to the owner, charterer, operator, agent, or any other person
14 having an interest in the vessel;

15 (11) "sewage" means human body wastes and the wastes from toilets
16 and other receptacles intended to receive or retain human body waste;

17 (12) "small commercial passenger vessel" means a commercial
18 passenger vessel that provides overnight accommodations for 249 or fewer passengers
19 for hire, determined with reference to the number of lower berths;

20 (13) "treated sewage" means sewage that meets all applicable effluent
21 limitation standards and processing requirements of 33 U. S. C. 1251 - 1376 (Federal
22 Water Pollution Control Act), as amended, the federal cruise ship legislation, and
23 regulations adopted under 33 U.S.C. 1251 - 1376 or under the federal cruise ship
24 legislation;

25 (14) "untreated sewage" means sewage that is not treated sewage;

26 (15) "vessel" means any form or manner of watercraft, other than a
27 seaplane on the water, whether or not capable of self-propulsion;

28 (16) "voyage" means a vessel trip to or from one or more ports of call
29 in the state with the majority of the passengers for hire completing the entire vessel
30 trip; a vessel trip involving stops at more than one port of call is considered a single
31 voyage so long as the majority of passengers for hire complete the entire trip;

1 (17) "waters of the Alexander Archipelago" means all waters under the
2 sovereignty of the United States within or near Southeast Alaska, beginning at a point
3 58 degrees 11 minutes 41 seconds North, 136 degrees 39 minutes 25 seconds West
4 (near Cape Spencer Light), thence southeasterly along a line three nautical miles
5 seaward of the baseline from which the breadth of the territorial sea is measured in the
6 Pacific Ocean and the Dixon Entrance, except where this line intersects geodesics
7 connecting the following five pairs of points: (A) 58 degrees 05 minutes 17 seconds
8 North, 136 degrees 33 minutes 49 seconds West and 58 degrees 11 minutes 41
9 seconds North, 136 degrees 39 minutes 25 seconds West (Cross Sound); (B) 56
10 degrees 09 minutes 40 seconds North, 134 degrees 40 minutes 00 seconds West and
11 55 degrees 49 minutes 15 seconds North, 134 degrees 17 minutes 40 seconds West
12 (Chatham Strait); (C) 55 degrees 49 minutes 15 seconds North, 134 degrees 17
13 minutes 40 seconds West and 55 degrees 50 minutes 30 seconds North, 133 degrees
14 54 minutes 15 seconds West (Sumner Strait); (D) 54 degrees 41 minutes 30 seconds
15 North, 132 degrees 01 minutes 00 seconds West and 54 degrees 51 minutes 30
16 seconds North, 131 degrees 20 minutes 45 seconds West (Clarence Strait); (E) 54
17 degrees 51 minutes 30 seconds North, 131 degrees 20 minutes 45 seconds West and
18 54 degrees 46 minutes 15 seconds North, 130 degrees 52 minutes 00 seconds West
19 (Revillagigedo Channel); the portion of each such geodesic situated beyond three
20 nautical miles from the baseline from which the breadth of the territorial sea is
21 measured forms the outer limit of the waters of the Alexander Archipelago in those
22 five locations.

23 * Sec. 2. AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

24 (XY) receipts described in AS 46.03.482(b)(1) and (2) received
25 under the commercial passenger vessel environmental compliance program;

26 * Sec. 3. AS 46.03.760(e) is amended to read:

27 (e) A person who violates or causes or permits to be violated a provision of
28 AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475 [AS 46.03.250 - 46.03.314],
29 AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or
30 acceptance, or term or condition of a permit, approval, or acceptance issued under
31 AS 46.03.250 - 46.03.313, 46.03.460 - 46.03.475, [AS 46.03.250 - 46.03.314] or

1 AS 46.14 is liable, in a civil action, to the state for a sum to be assessed by the court of
2 not less than \$500 nor more than \$100,000 for the initial violation, nor more than
3 \$10,000 for each day after that on which the violation continues, and that shall reflect,
4 when applicable,

5 (1) reasonable compensation in the nature of liquidated damages for
6 any adverse environmental effects caused by the violation, that shall be determined by
7 the court according to the toxicity, degradability and dispersal characteristics of the
8 substance discharged, the sensitivity of the receiving environment, and the degree to
9 which the discharge degrades existing environmental quality; for a violation relating to
10 AS 46.14, the court, in making its determination under this paragraph, shall also
11 consider the degree to which the discharge causes harm to persons or property; for a
12 violation of AS 46.03.463, the court, in making its determination under this
13 paragraph, shall also consider the volume of the gravwater or sewage discharged;
14 this paragraph may not be construed to limit the right of parties other than the state to
15 recover for personal injuries or damage to their property;

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

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

20 (4) the need for an enhanced civil penalty to deter future
21 noncompliance.

22 * Sec. 4. AS 46.03.790(a) is amended to read:

23 (a) Except as provided in (d) of this section, a person is guilty of a class A
24 misdemeanor if the person with criminal negligence

25 (1) violates a provision of this chapter, AS 46.04, AS 46.09, or
26 AS 46.14, a regulation or order of the department, or a permit, approval, or
27 acceptance, or a term or condition of a permit, approval, or acceptance issued under
28 this chapter, AS 46.04, AS 46.09, or AS 46.14;

29 (2) fails to provide information or provides false information required
30 by AS 46.03.465, 46.03.475, 46.03.755, AS 46.04, or AS 46.09, or by a regulation
31 adopted by the department under AS 46.03.460, 46.03.755 [AS 46.03.755], AS 46.04,

1 or AS 46.09;

2 (3) makes a false statement or representation in an application, label,
3 manifest, record, report, permit, or other document filed, maintained, or used for
4 purposes of compliance with AS 46.03.250 - 46.03.313 [AS 46.03.250 - 46.03.314]
5 applicable to hazardous wastes or a regulation adopted by the department under
6 AS 46.03.250 - 46.03.313 [AS 46.03.250 - 46.03.314];

7 (4) makes a false statement, representation, or certification in an
8 application, notice, record, report, permit, or other document filed, maintained, or used
9 for purposes of compliance with AS 46.03.460 - 46.03.475, AS 46.14, or a regulation
10 adopted under AS 46.03.460 or AS 46.14; or

11 (5) renders inaccurate a monitoring device or method required to be
12 maintained under AS 46.14, a regulation adopted under AS 46.14, or a permit issued
13 by the department or a local air quality control program under AS 46.14.

14 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 APPLICABILITY OF REPORTING REQUIREMENTS. (a) Notwithstanding
17 AS 46.03.461(a), enacted by sec. 1 of this Act, the first registration required under
18 AS 46.03.461(a) for the owner or operator of a commercial passenger vessel that is subject to
19 that section and is in the marine waters of the state on July 1, 2001, is 11:59 p.m., Alaska
20 Daylight Time, on July 3, 2001.

21 (b) The information-gathering and record keeping requirements of AS 46.03.465 and
22 46.03.470, enacted by sec. 1 of this Act, apply on and after July 1, 2001. The first report that
23 is due under AS 46.03.475(b) - (f), enacted by sec. 1 of this Act, is due August 21, 2001.

24 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 TRANSITION: INITIAL IMPLEMENTATION OF FEES. (a) For a commercial
27 passenger vessel voyage occurring on or after July 1, 2001, and before the effective date of
28 regulations adopted by the department under AS 46.03.480, enacted by sec. 1 of this Act,
29 providing for payment of the environmental compliance fee, the environmental compliance
30 fee required by AS 46.03.480, enacted by sec. 1 of this Act, for each voyage during which the
31 commercial passenger vessel is scheduled to operate in waters of this state, is due and payable

1 to the department on or before July 31 of the calendar year in which the voyage is scheduled
2 to occur. An additional amount owed under this subsection because of an unscheduled
3 voyage, or a refund request under this subsection because of a cancelled voyage, shall be
4 submitted to the department within 30 days after the vessel's last voyage in waters of the state
5 in that calendar year.

6 (b) In this section, "commercial passenger vessel," "department," "voyage," and
7 "waters" have the meanings given in AS 46.03.490, enacted by sec. 1 of this Act.

8 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 DELAYED APPLICABILITY TO SMALLER VESSELS. (a) Notwithstanding
11 sec. 11 of this Act, AS 46.03.463(a) - (d) and 46.03.480, enacted by sec. 1 of this Act, do not
12 apply until January 1, 2004, in the case of small commercial passenger vessels.

13 (b) In this section, "small commercial passenger vessel" has the meaning given in
14 AS 46.03.490, enacted by sec. 1 of this Act.

15 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 ASSESSMENT REPORTS. (a) By December 1, 2002, the department shall submit to
18 the governor a report that assesses the information received by the department for the cruise
19 ship seasons of 2000, 2001, and 2002 related to small commercial passenger vessels. The
20 report must include

21 (1) a characterization, to the extent possible, of the risks to the marine and
22 human environments posed by the discharge of sewage and graywater from small commercial
23 passenger vessels;

24 (2) evaluation of the sewage and graywater treatment systems and
25 technologies on the vessels, including an evaluation of whether small commercial passenger
26 vessels should be made subject to the requirements of AS 46.03.463(e) on and after January 1,
27 2004; and

28 (3) recommendations for future action by the state in relation to matters
29 discussed in the report.

30 (b) By January 15, 2004, the Department of Environmental Conservation shall submit
31 to the governor a report that assesses the information received by the department for the cruise

1 ship seasons of 2000, 2001, 2002, and 2003 related to commercial passenger vessels. The
2 report must include

3 (1) a characterization, to the extent possible, of the risks to the marine and
4 human environments posed by the discharge of sewage and graywater from commercial
5 passenger vessels;

6 (2) evaluation of the sewage and graywater treatment systems and
7 technologies on the vessels; and

8 (3) recommendations for future action by the state in relation to the matters
9 discussed in the report.

10 (c) While producing the assessments required under this section, the department shall
11 consult its own records, appropriate federal agencies, owners and operators of passenger and
12 other vessels, affected parties, and other appropriate sources of information.

13 (d) The department shall notify the legislature when the reports required under this
14 section have been submitted to the governor.

15 (e) In this section,

16 (1) "commercial passenger vessel" has the meaning given in AS 46.03.490,
17 enacted by sec. 1 of this Act;

18 (2) "department" means the Department of Environmental Conservation;

19 (3) "small commercial passenger vessel" has the meaning given in
20 AS 46.03.490, enacted by sec. 1 of this Act.

21 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 **TRANSITION: REGULATIONS.** Notwithstanding sec. 11 of this Act, the
24 Department of Environmental Conservation may immediately proceed to adopt regulations
25 necessary to implement this Act. A regulation adopted under this section takes effect under
26 AS 44.62 (Administrative Procedure Act) but not before the effective date of the statutory
27 provision implemented by the regulation.

28 * **Sec. 10.** Section 9 of this Act takes effect immediately under AS 01.10.070(c).

29 * **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect July 1, 2001.

SENATE FINANCE COMMITTEE

~~2000~~ COMMITTEE ACTION

6/8/01

Bill Number	HB 260		
Amendment	CS X		
Motion	adpt as Workdraft		
<u>Motion by</u>	D		
<u>Objection by</u>	Ward		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Wilken	✓		
Senator Austerman	✓		
Senator Green		—	
Senator Hoffman	✓		
Senator Leman	✓		
Senator Olson	✓		
Senator Ward			✓
Co-Chair Donley	✓		
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	7		
Nay	1		
Absent	1		
<u>MOTION</u>	Pass		

FISCAL NOTE

REPORTED OUT

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

JUN 08 2001
SENATE FINANCE
COMMITTEE

Fiscal Note Number: _____
Bill Version: CS HB 260(FIN) am
Publish Date: _____

Revision Date/Time (Note if correction): June 6, 2001 5:00 pm Dept. Affecte Environmental Conservation
Title: "An Act requiring the owners or operators of BRU: Air and Water Quality
certain passenger vessels operating in the marine waters.. Component: Commercial Passenger Vessel Program
Sponsor: House Finance Committee
Requester: Senate Transportation Component Number: 2592

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	140.4	140.4	140.4	140.4	140.4	140.4
Travel	10.0	10.0	10.0	10.0	10.0	10.0
Contractual	249.8	444.8	409.8	409.8	409.8	409.8
Supplies	3.0	3.0	3.0	3.0	3.0	3.0
Equipment	13.8	3.0	3.0	3.0	3.0	3.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	417.0	601.2	566.2	566.2	566.2	566.2

CAPITAL EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007

CHANGE IN REVENUES (Coastal Protecti	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
	481.7	763.0	763.0	784.7	784.7	784.7

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1166 Coastal Protection Fund	417.0	601.2	566.2	566.2	566.2	566.2
TOTAL	417.0	601.2	566.2	566.2	566.2	566.2

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget prop

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note is revised to reflect a change in component and to correct typographical errors.

See attached

Prepared by: Lynn J. Tomlich Kent Phone 465-5312
Division Air and Water Quality Date/Time 6/6/01 5:00 PM
Approved by: Kurt Fredriks: n, Deputy Commissioner Date 6/6/2001
Agency Department of Environmental Conservation

For distribution information, call the Governor's Legislative Office

Funding for this bill is from the Alaska Commercial Passenger Vessel Coastal Protection Fund created by this legislation. The fund consists of collected fees, legislative appropriations, penalties and earnings on the fund. The revenue projection is based upon the effective dates and payment dates established in the legislation.

Personal Services – 2 positions

One full time Environmental Specialist IV in Juneau will be required to register passenger vessels annually; establish an information management system; coordinate with the USCG, EPA, the public, and the cruise ship industry; contract for facilitator assistance and in consultation with other agencies, the cruise industry and interested persons, develop regulations necessary for implementing the legislation and to develop and implement the superior environmental protection recognition program; complete an assessment report for sewage and graywater by January, 2004; designate areas less than one nautical mile from the nearest shore where treated sewage or graywater may be discharged; evaluate the environmental effects of discharges; and review and approve vessel-specific alternative terms and conditions.

One full time Environmental Engineer Associate I in Juneau will review certifications from each vessel regarding compliance with standard terms and conditions; request and review reports and logbook copies covering information about the release of sewage and graywater; review and approve graywater and sewage sampling techniques and analytical methods; review analytical reports for graywater and sewage; review and approve requests for extensions of the graywater standards and the use of experimental technologies for individual vessels; review immediate reports of violations of effluent standards; conduct compliance reviews and collect and analyze effluent; manage contracts for ambient water monitoring; conduct or manage contracts and review emissions reports for opacity emissions monitoring in Prince William Sound and the Kenai Peninsula; coordinate and evaluate Royal Caribbean funded opacity monitoring in Southeast; provide technical and compliance assistance to the cruise ship industry and the public; contract for assistance in evaluating the environmental impact of discharges; and provide technical assistance to the attorney general's office on any necessary enforcement actions.

Travel

Travel funds are for providing compliance assistance to the cruise ship industry, working with interested parties on development of regulations, the assessment report and development and implementation of the superior environmental protection recognition program and technical/professional training for staff.

Contractual

FY 02 contractual funds cover development of a database to manage and store effluent data received from the cruise ship industry; technical assistance for environmental assessment and risk analysis; ambient water monitoring; effluent monitoring; a facilitator for negotiated rule-making; and advertising, printing, meeting, and mailing costs for public notice of the regulations. FY 03 contractual funds include technical assistance for risk analysis; air emissions opacity readings in Prince William Sound and the Kenai Peninsula; ambient air and water monitoring; effluent monitoring; a reduced level for a facilitator (and elimination of this funding in FY 04); and technical assistance with development and implementation of the superior environmental protection recognition program (the amount is reduced in FY 04 to reflect that ongoing implementation of the program will cost less than initial development of the program). All fiscal years include standard position support costs.

Supplies and Equipment

Supply and equipment funds during FY 02 cover standard office supplies, furnishings and computers for the positions. Equipment funds are reduced in subsequent years.

Personal Services New Position Detail

Department of Environmental Conservation
Fiscal Note Attachment-CSHB 260 (FIN) am

Scenario: 02 DEC Fiscal Note Backup (1822)

Component: Commercial Passenger Vessel Program (2592)

BRU Name: Air and Water Quality (206)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range &	Budgeted Count	Split / Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#006	Environmental Spec IV	FT	A	SS	Juneau	1A	20B	12.0	52,500	1,250	0	17,013	70,763

Justification:

To implement CSHB 260(FIN) am.

Funding Detail:

1166	Commercial Passenger Coastal Protection F	100.00%	70,763
Total Funding:		100.00%	70,763

18-#007 Env Eng Associate

FT A GG Juneau

1A

20B

12.0

52,116

620

0

16,916

69,652

Justification:

To implement CSHB 260(FIN) am.

Funding Detail:

1166	Commercial Passenger Coastal Protection F	100.00%	69,652
Total Funding:		100.00%	69,652

Component Summary:

Total New Positions: 2

Fund Description	Fund Percent	Fund Amount
1166 Commercial Passenger Coastal Protection F	100.00%	140,415
Total Funding:	100.00%	140,415

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column.

FISCAL NOTE

→ PULLED & REPLACED ←
 language changes on pg. 2
 all else including date & time is identical

STATE OF ALASKA
 2001 LEGISLATIVE SESSION

Fiscal Note Number _____
 Bill Version: CS HB 260(FIN) am
 () Publish Date: _____

Revision Date/Time (Note if correction): June 6, 2001 5:00 pm Dept. Affect: Environmental Conservation
 Title: "An Act requiring the owners or operators of certain passenger vessels operating in the marine waters..." BRU: Air and Water Quality
 Component: Commercial Passenger Vessel Program
 Sponsor: House Finance Committee
 Requester: Senate Transportation Component Number: 2592

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	140.4	140.4	140.4	140.4	140.4	140.4
Travel	10.0	10.0	10.0	10.0	10.0	10.0
Contractual	249.8	444.8	409.8	409.8	409.8	409.8
Supplies	3.0	3.0	3.0	3.0	3.0	3.0
Equipment	13.8	3.0	3.0	3.0	3.0	3.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	417.0	601.2	566.2	566.2	566.2	566.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (Coastal Protect)	481.7	763.0	763.0	784.7	784.7	784.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1166 Coastal Protection Fund	417.0	601.2	566.2	566.2	566.2	566.2
TOTAL	417.0	601.2	566.2	566.2	566.2	566.2

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note is revised to reflect a change in component and to correct typographical errors.

See attached

Prepared by: Lynn J. Tomich Kent Phone 465-5312
 Division: Air and Water Quality Date/Time 6/6/01 5:00 PM
 Approved by: Kurt Fredriksson, Deputy Commissioner Date 6/6/2001
 Agency: Department of Environmental Conservation

For distribution information, call the Governor's Legislative Office

Funding for this bill is from the Alaska Commercial Passenger Vessel Coastal Protection Fund created by this legislation. The fund consists of collected fees, legislative appropriations, penalties and earnings on the fund. The revenue projection is based upon the effective dates and payment dates established in this legislation.

Personal Services – 2 positions

One full time Environmental Specialist IV in Juneau will be required to register passenger vessels annually; establish an information management system; coordinate with the USCG, EPA, the public, and the cruise ship industry; contract for facilitator assistance and in consultation with other agencies, the cruise industry and interested persons, develop regulations necessary for implementing the legislation and to develop and implement the superior environmental protection recognition program; complete an assessment report for sewage and graywater by January, 2004; designate areas less than one nautical mile from the nearest shore where treated sewage or graywater may be discharged; evaluate the environmental effects of discharges; identify sensitive areas and make recommendations to reduce impacts; and review and approve vessel-specific alternative terms and conditions.

One full time Environmental Engineer Associate I in Juneau will review certifications from each vessel regarding compliance with standard terms and conditions; request and review reports and logbook copies covering information about the release of sewage and graywater; review and approve graywater and sewage sampling techniques and analytical methods; review analytical reports for graywater and sewage; review and approve requests for extensions of the graywater standards and the use of experimental technologies for individual vessels; review immediate reports of violations of effluent standards; conduct compliance reviews and collect and analyze effluent; manage contracts for ambient water monitoring; conduct or manage contracts and review emissions reports for opacity emissions monitoring in Prince William Sound and the Kenai Peninsula; coordinate and evaluate Royal Caribbean funded opacity monitoring in Southeast; provide technical and compliance assistance to the cruise ship industry and the public; contract for assistance in evaluating the environmental impact of discharges; and provide technical assistance to the attorney general's office on any necessary enforcement actions.

Travel

Travel funds are for providing compliance assistance to the cruise ship industry, working with interested parties on development of regulations, the assessment report and development and implementation of the superior environmental protection recognition program and technical/professional training for staff.

Contractual

FY 02 contractual funds cover development of a database to manage and store effluent data received from the cruise ship industry; technical assistance for environmental assessment and risk analysis; ambient water monitoring; effluent monitoring; a facilitator for negotiated rule-making; and advertising, printing, meeting, and mailing costs for public notice of the regulations. FY 03 contractual funds include technical assistance for risk analysis; air emissions opacity readings in Prince William Sound and the Kenai Peninsula; ambient air and water monitoring; effluent monitoring; a reduced level for a facilitator (and elimination of this funding in FY 04); and technical assistance with development and implementation of the superior environmental protection recognition program (the amount is reduced in FY 04 to reflect that ongoing implementation of the program will cost less than initial development of the program). All fiscal years include standard position support costs.

Supplies and Equipment

Supply and equipment funds during FY 02 cover standard office supplies, furnishings and computers for the positions. Equipment funds are reduced in subsequent years.

Personal Services New Position Detail

Department of Environmental Conservation
Fiscal Note Attachment-CSHB 260 (FIN) am

Scenario: 02 DEC Fiscal Note Backup (1822)
Component: Commercial Passenger Vessel Program (2592)
BRU Name: Air and Water Quality (206)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range &	Budgeted Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#006	Environmental Spec IV	FT	A	SS	Juneau	1A	20B	** 12.0	52,500	1,250	0	17,013	70,763

Justification:

To implement CSHB 260(FIN) am.

Funding Detail:

1166	Commercial Passenger Coastal Protection Fi	100.00%	70,763
Total Funding:		100.00%	70,763

18-#007 Env Eng Associate

FT	A	GG	Juneau	1A	20B	12.0	52,116	620	0	16,916	69,652
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Justification:

To implement CSHB 260(FIN) am.

Funding Detail:

1166	Commercial Passenger Coastal Protection Fi	100.00%	69,652
Total Funding:		100.00%	69,652

Component Summary:

Total New Positions: 2

Fund Description	Fund Percent	Fund Amount
1166 Commercial Passenger Coastal Protection Fi	100.00%	140,415
Total Funding:		100.00% 140,415

Note: If a position is split, an asterisk (*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (**) will appear in this column.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSHB 260 (FIN) am
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act requiring the owners or operators of BRU Civil Division
certain commercial passenger vessels operating in ..." Component Environmental Law
Sponsor House Finance Committee
Requester Senate Transportation Committee Component No. 2092

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	30.3	60.6	60.6	60.6	60.6	60.6
Travel	0.6	2.2	2.2	2.2	2.2	2.2
Contractual	4.7	56.5	56.5	56.5	56.5	56.5
Supplies	0.4	0.8	0.8	0.8	0.8	0.8
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	42.5	120.0	120.0	120.0	120.0	120.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
xxxx Coastal Protection Fund	42.5	120.0	120.0	120.0	120.0	120.0
TOTAL	42.5	120.0	120.0	120.0	120.0	120.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides for limitations on discharges of sewage and graywater and for a comprehensive registration, reporting, and monitoring program for cruise ships that would cover wastewater, solid waste, and air emissions. Coastal Protection fees paid by the cruise ship industry are intended to allow the program to be self sufficient.

The Department of Law estimates that during FY02 the services of one-quarter of an FTE attorney would be necessary for the regulations development process which will involve negotiated rulemaking and several affected entities, and to provide for enforcement of registration, reporting, and monitoring requirements, collection of fees, and development and defense of alternative terms and conditions.

Using the department's FY02 cost schedule, the cost of one-quarter of an FTE attorney is \$35.4, which includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Direct case costs are not included in the

Prepared by: Joan M. Kasson Phone 465-5370
Division Attorney General's Office Date/Time 5/4/01 8:49 AM
Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 5/4/01
Agency Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 3
 Bill Version: SCS CSHB 260(TRA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title: "An Act relating to marine passenger vessels;" BRU: Marine Highway System
 Component: Southeast and Southwest
 Sponsor: House Finance Committee Vessel Operations
 Requester: Senate Transportation Committee Component Number: 630 & 631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	35.0	35.0	35.0	35.0	35.0	35.0
Travel	10.0	10.0	10.0	10.0	10.0	10.0
Contractual	20.0	20.0	20.0	20.0	20.0	20.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	65.0	65.0	65.0	65.0	65.0	65.0

CAPITAL EXPENDITURES	10,500.0					
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10,565.0	65.0	65.0	65.0	65.0	65.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	10,565.0	65.0	65.0	65.0	65.0	65.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

(See Attached)

Prepared by: Captain George Capacci, General Manager Phone 465-3959
 Division: Alaska Marine Highway System Date/Time 5/9/01 12:00 AM
 Approved by: Joseph L. Perkins, Commissioner Date 5/9/01
 Agency: DOT&PF

For distribution information, call the Governor's Legislative Office

**Department of Transportation and Public Facilities
Fiscal Note Analysis – SCS CSHB 260(TRA)
June 7, 2001**

"An Act relating to marine passenger vessels;..."

This bill would classify seven of the Alaska Marine Highway System (AMHS) as large commercial passenger vessels and two as small commercial passenger vessels. Costs of implementing this bill are as follows:

New Position

In order to ensure compliance with this bill the AMHS would need a part-time Environmental Compliance Manager position. This position would be in charge of developing procedures, monitoring procedures, tracking the sampling of waste discharge reports, and participating in industry task forces related to environmental concerns. This position would develop the required documentation systems for the discharge of pollutants. The cost of this position is estimated to be \$35,000 per year. An additional \$10,000 is included for the position to travel to and from the vessels. This would be effective July 1, 2001.

Sec. 46.03.463(e) – (h) – limitations on discharges

The bill sets limits when and where wastewater discharges may take place. The marine sanitation devices currently in place on the AMHS vessels do not comply with these requirements. The devices place are automatic and do not include large storage tanks for delayed disposal. The current systems process the waste and discharge it when the processing tank is full. The dates, times, locations and volumes are not monitored.

In order to comply with these requirements each of the seven AMHS vessels classified as large would need new waste processing systems. The new systems would cost approximately \$1.5 million each for a total of \$10.5 million. Implementation by July 1, 2001 would be impossible.

Sec. 46.03.465 – Information-gathering requirements

Wastewater monitoring is also required under this section. This involves taking samples of wastewater and quickly sending them to an approved laboratory for analysis. It is assumed these samples would be required twice a year. For the nine AMHS vessels this would equate to about 18 such samples per year. With re-testing, it is estimated these samples would cost \$1,000 each including the collection time, lab fees, and shipping expenses. Total Cost: \$18,000 per year. This provision is effective July 1, 2001.

Sec. 46.03.480 - Fees

The bill imposes a fee on the AMHS that would be determined by agreement between the commissioners of the DEC and DOT&PF. The fee is estimated to be \$2,000 per year.

Sectional Analysis

Revised 6/8/01 9 a.m.

Senate CS for CS HB260 (FIN)

Version X

(Includes changes from House version, Senate Transportation version and Senate Finance X)

* Title Change

* Sec. 1 Findings - DELETED

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

Article 6A. Commercial Passenger Vessel Environmental Compliance Program.

Sec. 46.03.460. Program established.

(a) Establishes Commercial Passenger Vessel Environmental Compliance Program.
Minor word changes in (a) (1) and (2)

(b) Authorizes DEC to adopt regulations through negotiated regulation making, as appropriate.

Sec. 46.03.461. Registration requirements.

(a) Requires the owner or operator of every commercial passenger vessel operating in Alaska to annually register with DEC by providing identifying information, designating an agent for service of process in Alaska and agreeing to comply with certain terms and conditions of permitting discharges. State vessels including Marine Highway vessels have been removed from this provision and the legislation.

(b) Requires the registration to be executed under oath.

(c) Authorizes DEC to require electronic registration.

Sec. 46.03.462. Terms and Conditions of Discharges.

*Throughout this section, either the word "vessel" or "allowed" has been substituted for "Permitted" or "permitting".

(a) Requires owner/operator to comply either with standard or alternative terms and conditions of vessel discharges.

(b) Specifies standard terms and conditions of vessel discharges including restrictions on discharges, maintaining records, sampling, reporting and permitting the

department to access the vessels. Technical amendment to (b)(1) to ensure small cruise vessel's delayed applicability (suggested by drafter)

(c) Specifies circumstances under which DEC can establish alternative terms and conditions of vessel discharges.

Sec. 46.03.463. Prohibited discharges; limitations on discharges

(a) Prohibits the discharge of untreated sewage from a commercial passenger vessel into the marine waters of the state.

(b) Prohibits the discharge of treated sewage from a commercial passenger vessel into the marine waters of the state where the suspended solids level is greater than 150 or exceeds a fecal coliform count of 200. The Department may by regulation adopt a protocol for retesting the fecal coliform discharge limit if the discharge limit is exceeded, under which the discharger will be considered to be in compliance if the geometric mean of the fecal coliform count in the samples subject to the protocol does not exceed 200 colonies per 100 milliliters.

(c) Prohibits the discharge of graywater from a commercial passenger vessel into the marine waters of the state where suspended solids level is greater than 150 or exceeds a fecal coliform count of 200. The Department may by regulation adopt a protocol for retesting the fecal coliform discharge limit if the discharge limit is exceeded, under which the discharger will be considered to be in compliance if the geometric mean of the fecal coliform count in the samples subject to the protocol does not exceed 200 colonies per 100 milliliters. Compliance for large commercial passenger vessels to be deferred until January 1, 2003 if owner/operator submits plan to DEC specifying interim protective measures. Small commercial passenger vessels must have a plan for interim protective measures, and may have time extended for compliance with (b) or (c) - notwithstanding Section 7, Page 16.

(d) Authorizes DEC to establish additional numeric or narrative standards for other parameters for sewage and graywater, taking into account best available science, the materials and substances handled on the vessels and available technologies.

(e) Requires that any discharge of treated sewage or graywater from a large commercial passenger vessel into the marine waters of the state only occur while the vessel is moving at a speed of at least 6 knots, the vessel is at least one nautical mile from shore, the discharge complies with all legal requirements and the ship is not in an area where discharges are otherwise prohibited.

(f) Small commercial passenger vessels may only discharge sewage that has been processed through a properly operated and maintained marine sanitation device.

(g) Adopts the federal law exception to the 'only underway, at least one nautical mile from shore' requirement in (e) to permit discharges that meet more rigorous standards (those used by DEC to regulate discharges in shellfish areas). This reflects the abilities of enhanced treatment equipment now being installed on some ships.

(h) Creates an exception to the no discharge rules in cases where the discharge is necessary for the safety of the vessel.

Sec. 46.03.465. Information-gathering requirements.

(a) Requires that records are maintained, and reports are provided, to DEC with respect to discharges of sewage and gray water.

(b) Requires that each commercial passenger vessel undertake a sampling and testing program of sewage and graywater being discharged into the marine waters of the state using a sampling technique approved by DEC. At least two tests must be done annually, or more if testing frequency under federal law is higher than two. Redundant language on the testing was eliminated in the CS (was Page 8, lines 4-5 of House version).

(c) Authorizes DEC to require additional sampling and testing.

(d) Samples must be tested to measure for fecal coliform, ammonia, residual chlorine, pH, biochemical oxygen demand (BOD), chemical oxygen demand (COD), total suspended solids and other parameters, as required by DEC, using a DEC approved testing method.

(e) Owner/operator to pay for routine sampling and testing under (b); DEC to pay for additional sampling and testing under (c).

(f) Allows a vessel owner or operator to comply with these record-keeping, reporting and testing obligations by providing DEC with substantially equivalent information gathered in the course of meeting federal or other state requirements.

Sec. 46.03.470. Record keeping requirements.

Requires the vessel owner or operator to maintain records required under AS 46.03.465 for at least 3 years.

Sec. 46.03.475. Reporting requirements.

(a) Requires owner/operator to self-report violations of the rules restricting sewage, treated sewage and graywater discharges. No audit report privilege exists.

(b) Requires owner/operator to provide DEC with copies of all sewage and graywater test results that are provided to the U.S. Coast Guard or U.S. EPA.

(c) Requires that sampling results obtained under AS 46.03.465 are provided to DEC within 21 days after the testing is done. Allows this requirement to be satisfied by providing substantially equivalent information already being provided to the federal government.

(d) Requires owner/operator to provide DEC with copies of all notices and reports given to the U.S. federal government, the Canadian government or to a Canadian provincial/territorial government involving the generation, discharge or offloading in Alaska of hazardous wastes or hazardous substances.

(e) Requires owner/operator to provide DEC with a description of procedures being used to offload ashore in Alaska hazardous wastes and nonhazardous solid wastes; or disposing into marine waters nonhazardous solid waste other than sewage.

(f) DEC authorized to require reports to be submitted electronically.

(g) These reporting requirements are in addition to any other reporting requirements under other laws.

Sec. 46.03.480. Fees.

(a) Adopts an environmental compliance fee program.

(b) Sets the fee at approximately \$1.00 per passenger per voyage, based on a vessel's lower berth capacity.

~~(c)~~ Deletes reference to fees to be paid for by Alaska Marine Highway vessels.

(d) Makes the vessel liable for the fee. Payments dates to be set by DEC.
Relettered (c)

Sec. 46.03.482. Alaska commercial passenger vessel environmental compliance fund.

(a) Establishes the passenger vessel environmental compliance fund in the general fund.

(b) The fund includes the passenger fees, any amounts paid for civil violations, additional appropriations and earnings.

(c) Authorizes the legislature to appropriate from the fund to pay for DEC's operational costs for this program and for the marine vessel visible emissions program.

(d) Provides that the unexpended and unobligated balance lapses into the fund December 31 following the end of the period for which the appropriation was made.

(e) Does not create a dedicated fund.

Sec. 46.03.485. Recognition program.

Authorizes DEC to establish a program to recognize superior environmental protection efforts made by the owners or operators of vessels.

Sec. 46.03.487. Exemption for vessels in innocent passage.

In order to comply with international treaty requirements, this provision makes the registration and fee programs inapplicable to vessels that are only going through Alaska waters on their way between two points outside Alaska (in innocent passage). The limitations established in this legislation do not apply.

Sec. 46.03.488. Activities of the department.

Authorizes department to conduct certain monitoring, studying and research as to the environmental effects of discharges or releases of sewage, graywater into Alaska's marine waters and opacity of air emissions. **Deletes reference to mass loading study.**

Sec. 46.03.490. Definitions.

Specifies definitions.

"commercial passenger vessel" does not include any state vessels or those operated by the Alaska marine highway system; only those able to carry greater than 50 passengers for hire;

"federal cruise ship legislation" has additional language

"fund" reflects name change of the fund

"large commercial passenger vessel" means vessels able to carry 250 or more passengers (not including state vessels)

"small commercial passenger vessel" means vessels able to carry 249 or fewer passengers for hire (not including state vessels)

* Renumbered Sec. 2. AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

Included to reflect creation of the new environmental compliance fund.

*Renumbered Sec. 3. AS 46.03.760(e) is amended to read:

Amends existing environmental civil violation statutes to make them also applicable to violations of these new requirements. Requires the court to take into consideration the volume of sewage or graywater discharged in determining the amount of a fine.

*Renumbered Sec. 4. AS 46.03.790(a) is amended to read:

Amends existing environmental criminal statutes to make them also applicable to violations of these new requirements.

* Renumbered Sec. 5. Provides that first registration is due by July 3, 2001. **Rewritten (a) ensures that vessels in innocent passage would not inadvertently be swept up in this transition provision.**

* Renumbered Sec. 6. Provides that the first fee payment is due by July 31, 2001 . Deleted reference to state vessels.

* Renumbered Sec. 7. Rewritten to provide an exemption from limitations on discharges (AS 46.03.463 (a)- (d) and fees (AS 46.03.480) for vessels with 249 or fewer passengers until January 1, 2004, and longer if the vessel has a plan for interim protective measures. These vessels must process sewage they intend to discharge through a properly operated and maintained marine sanitation device (Page 5, Lines 28-31).

* Renumbered Sec. 8. (a) By December 1, 2002 DEC is to submit an Assessment Report evaluating the information received by DEC for the period 2000-02 related to small commercial passenger vessels. The report is to include recommendations for future action.

(b) By January 15, 2004, DEC is to submit an Assessment Report evaluating the information received by DEC for 2000-2003 related to all commercial passenger vessels subject to HB 260. (S) FIN version deletes reference to mass loading information.

* Renumbered Sec. 9. Allows DEC to begin work immediately on regulations.

* Renumbered Sec. 10. Section 9 to take effect immediately.

* Renumbered Sec. 11. July 1, 2001 effective date.

Summary of Changes
From
Senate CS CS HB 260 (TRA)/T
To
Senate Finance Committee Substitute Version "X"

- ❖ Technical amendment to ensure small cruise ships keep exemption (Page 3, Lines 6 & 7)
- ❖ Rewrites the geometric mean language in limitations on discharges (Page 4, Lines 20-25, Page 4, Line 31 and Page 5, Lines 1-5)
- ❖ Deletes mass loading report from activities of the department (Sec. 46.03.488) and Assessment Reports (Section 8)
- ❖ Clarifies lapse language for the environmental compliance fund (Page 10, Lines 13-16)
- ❖ HB 260 no longer applies to state vessels.

United State Cruise Ship Association Company Membership and Vessels



Glacier Bay Tours and Cruises/Goldbelt Corporation

Vessel Name	# Guests	# Crew	Length	Beam
Executive Explorer	49	18	104'	36.9'
Wilderness Adventurer	76	24	156.6'	38'
Wilderness Discoverer	86	23	169'	38'
Wilderness Explorer	36	13	112'	21.1'

Alaska Sightseeing/ Cruise West

Vessel Name	# Guests	# Crew	Length	Beam
Spirit of Alaska	78	21	143'	28'
Spirit of Discover	84	21	166'	37'
Spirit of '98	96	26	192'	40'
Spirit of Endeavour	102	32	217'	37'
Spirit of Columbia	78			
Spirit of Glacier Bay	52			

Lindblad Expeditions

Vessel Name	# Guests	# Crew	Length	Beam
Sea Bird	70	28	152'	31'
Sea Lion	74	28	152'	31'

Clipper Cruise Lines

Vessel Name	# Guests	# Crew	Length	Beam
Yorktown Clipper	138	40	257'	43'
Nantucket Clipper	100	36	207'	37'

America West Steamboat

Vessel Name	# Guests	# Crew	Length	Beam
Queen of the West	163	47	230"	50'

Questions contact:

Randy Ray
United States Cruise Ship Association
P.O. Box 979
Mercer Island, WA 98040
206-230-9880

PROVIDED BY
GARY WILKEN

SENATE FINANCE COMMITTEE

SIGN-IN

HB 260-COMMER.PASSENGER VESSEL REGULATION & FEES

NAME: Randy Ray Subject/Bill No: HB 260
Co./Dept./Title: US Cruise Ship Assoc Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

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Co./Dept./Title: _____ Phone: _____
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