

SCOMM

62:16

Compared to SB 468:

Sec. 3 rewritten for clarity
Sec. 7 rewritten to give DMVA direct spending authority
Secs. 8-9 in the CS are new

6-2042D
Lauterbach
3/26/90

Original sponsor(s): SEN. HALFORD, Kelly, Sturgulewski

1 IN THE SENATE

BY THE SENATE SPECIAL COMMITTEE ON OIL & GAS

2 CS FOR SENATE BILL NO. 468 (Oil & Gas)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to duties of the Department of
7 Military and Veterans' Affairs and the Department of
8 Environmental Conservation in relation to oil, haz-
9 ardous substances, and radioactive material."

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

11 * Section 1. AS 26.23.040 is amended by adding a new subsection to
12 read:

13 (f) The Alaska division of emergency services shall establish
14 the oil and hazardous substance response office, prepare statewide and
15 regional oil and hazardous substance discharge and prevention contin-
16 gency plans, and perform related duties under AS 46.04.200 - 46.04.210
17 and AS 46.08.100 - 46.08.190.

18 * Sec. 2. AS 46.03.865(a) is amended to read:

19 (a) When the department finds that an actual or imminent dis-
20 charge of oil, a hazardous substance, or low level radioactive mate-
21 rials to the air, water, land, or subsurface land of the state poses
22 an immediate threat to the public health or welfare [,] or the envi-
23 ronment of the state, it may issue an order declaring an emergency.
24 If the department issues an order declaring an emergency under this
25 subsection, the division of emergency services, Department of Military
26 and Veterans' Affairs, shall, under the authority of AS 26.23 and
27 AS 46.08.100 - 46.08.190, direct [AND DIRECTING A PERSON OR] persons
28 to take action the division [DEPARTMENT] believes necessary to meet
29 the emergency, and protect the public health, welfare, or environment.

Clarity
* Sec. 3 AS 46.03.865(c) is amended to read:

(c) During a period of emergency declared under (a) of this section, each state agency shall take whatever action [, INCLUDING, WHEN APPROPRIATE,] the division of emergency services, Department of Military and Veterans' Affairs, under the authority conferred by AS 26.23 and AS 46.08.100 - 46.08.190 [AS 26.20, SHALL TAKE WHATEVER ACTION THE DEPARTMENT] finds necessary to meet the emergency [,] and to protect the public health, welfare, or environment.

* Sec. 4. AS 46.04.080(a) is amended to read:

(a) The actual or imminent occurrence of a catastrophic oil discharge constitutes a disaster emergency under AS 26.23. The [HOWEVER, THE] department shall augment and support [PERFORM THE DUTIES OF] the Alaska division of emergency services, Department of Military and Veterans' Affairs, in the performance of the division's duties under AS 26.23.040 and AS 46.08.100 - 46.08.190 as they apply to catastrophic oil discharges. The department shall consult and coordinate its duties under this section with the Alaska division of emergency services.

* Sec. 5. AS 46.04.200 is amended to read:

Sec. 46.04.200. STATE MASTER PLAN. (a) The division of emergency services, Department of Military and Veterans' Affairs, [DEPARTMENT] shall prepare and annually review and revise a statewide master oil and hazardous substance discharge and prevention contingency plan.

(b) The state master plan prepared under this section must

(1) take into consideration the elements of an oil discharge contingency plan approved or submitted for approval under AS 46.04.030;

(2) clarify and specify the respective responsibilities of each of the following in the assessment, containment, and cleanup of a

1 catastrophic oil discharge or of a significant discharge of a hazard-
2 ous substance into the environment of the state:

- 3 (A) agencies of the state;
4 (B) municipalities of the state;
5 (C) appropriate federal agencies;
6 (D) operators of facilities;
7 (E) private parties whose land and other property may
8 be affected by the oil or hazardous substance discharge; and
9 (F) other parties identified by the division [COMMIS-
10 SIONER] as having an interest in or the resources to assist in
11 the containment and cleanup of an oil or hazardous substance
12 discharge;

13 (3) specify the respective responsibilities of parties
14 identified in (2) of this subsection in an emergency response; and

15 (4) identify actions necessary to reduce the likelihood of
16 catastrophic oil discharges and significant discharges of hazardous
17 substances.

18 (c) In preparing and annually reviewing the state master plan,
19 the division [COMMISSIONER] shall

20 (1) consult with municipal and community officials, and
21 with representatives of affected regional organizations;

22 (2) submit the draft plan to the public for review and
23 comment;

24 (3) submit to the legislature for review, not later than
25 the 10th day following the convening of each regular session, the plan
26 and any annual revision of the plan; and

27 (4) require or schedule unannounced oil spill drills to
28 test the sufficiency of an oil discharge contingency plan approved
29 under AS 46.04.030 or of the cleanup plans of a party identified under

1 (b)(2) of this section.

2 * Sec. 6. AS 46.04.210(a) is amended to read:

3 (a) For any region of the state, the boundaries of which are
4 determined by the division of emergency services, Department of Mili-
5 tary and Veterans' Affairs, [COMMISSIONER] by regulation, in which the
6 Department of Environmental Conservation [DEPARTMENT] is required to
7 review and approve an oil discharge contingency plan submitted by a
8 person under AS 46.04.030, the division [DEPARTMENT] shall prepare and
9 annually review and revise a regional master oil and hazardous sub-
10 stance discharge and prevention contingency plan.

11 *direct authority*
12 * Sec. 7. AS 46.08.040 is amended by adding a new subsection to read:

13 (b) The adjutant general of the Department of Military and
14 Veterans' Affairs may use money from the fund to pay costs incurred by
15 the division of emergency services, Department of Military and Veter-
16 ans' Affairs, to

17 (1) establish and maintain the oil and hazardous substance
18 response office and for the expenses of the oil and hazardous sub-
19 stance response corps and the oil and hazardous substance response
20 depots established by that office;

21 (2) prepare, review, and revise the state's master oil and
22 hazardous substance discharge and prevention contingency plan required
23 by AS 46.04.200 and a regional master oil and hazardous substance
24 discharge and prevention contingency plan required by AS 46.04.210;
25 and

26 (3) contain, clean up, and take other necessary action to
27 address a release or threatened release of oil or a hazardous sub-
28 stance that is within the jurisdiction of the division of emergency
29 services under AS 26.23 or AS 46.08.100 - 46.08.190.

30 * *NEW* Sec. 8. AS 46.08.070(a) is amended to read:

*for DMVA
(authority to seek reimbursement
of expenses)*

NEW

(a) The commissioner and the adjutant general shall seek reimbursement promptly under this section, AS 46.03.760(e), or federal law for the cost incurred in the cleanup or containment of oil or a hazardous substance that has been released.

* Sec. 9. AS 46.08.070(b) is amended to read:

(b) The attorney general, at the request of the commissioner or the adjutant general, shall immediately seek to recover money expended by the department or the division of emergency services under AS 46.-08.005 - 46.08.080 or other law to contain and clean up oil or a hazardous substance that has been released or to control the threatened release of oil or a hazardous substance.

* Sec. 10. AS 46.08.100 is amended to read:

Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the division of emergency services, Department of Military and Veterans' Affairs, [DEPARTMENT] the oil and hazardous substance response office. The office shall include a director and employees who are specially trained in programs and technologies related to the containment and cleanup of releases or threatened releases of oil and hazardous substances.

* Sec. 11. AS 46.08.110(c) is amended to read:

(c) Members of the corps are entitled to per diem and expenses as determined by the division [COMMISSIONER] for training and for days spent in service to the state in containment and cleanup actions.

* Sec. 12. AS 46.08.130(b) is amended to read:

(b) The office may respond under (a) of this section to an oil or hazardous substance discharge only if:

(1) the oil discharge is a catastrophic oil discharge that constitutes an emergency under AS 46.04.080(a);

(2) the discharge of oil or a hazardous substance is

1 declared to be an emergency under AS 46.03.865;

2 (3) the governor declares the discharge an emergency under
3 AS 26.23;

4 (4) the division director [COMMISSIONER] reasonably be-
5 lieves that there has been a discharge of oil or a hazardous sub-
6 stance, or that there is a potential discharge of oil or a hazardous
7 substance, and the discharge may qualify under (1) - (3) of this
8 subsection; or

9 (5) the division director [COMMISSIONER] reasonably be-
10 lieves that the discharge or potential discharge poses an imminent and
11 substantial threat to public health or welfare or to the environment.

12 * Sec. 13. AS 46.08.190 is amended by adding a new paragraph to read:

13 (4) "division" means the division of emergency services,
14 Department of Military and Veterans' Affairs.

15 * Sec. 14. AS 46.09.030 is amended to read:

16 Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner of
17 environmental conservation or the director of the division of emer-
18 gency services, Department of Military and Veterans' Affairs, may
19 request the governor to determine that an actual or imminent release
20 of a hazardous substance constitutes a disaster emergency under
21 AS 26.23. If the governor declares a disaster emergency under AS 26.-
22 23, the commissioner shall [MAY] assist the division of emergency
23 services, Department of Military and Veterans' Affairs, [ADJUTANT
24 GENERAL] in the relief of the emergency.

25 * Sec. 15. AS 46.08.040(2) and 46.08.040(5) are repealed.
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BY SEN. HALFORD, Kelly, Sturgulewski

1 IN THE SENATE

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SENATE BILL NO. 468

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27 AS 46.08.100 - 46.08.190, direct [AND DIRECTING A PERSON OR] persons
28 to take action the division [DEPARTMENT] believes necessary to meet
29 the emergency, and protect the public health, welfare, or environment.

1 * Sec. 3. AS 46.03.865(c) is amended to read:

2 (c) During a period of emergency declared under (a) of this
3 section, each state agency, including [, WHEN APPROPRIATE,] the divi-
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5 Affairs, under the authority conferred by AS 26.23 and AS 46.08.100 -
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19 Sec. 46.04.200. STATE MASTER PLAN. (a) The division of emer-
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24 (1) take into consideration the elements of an oil dis-
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26 AS 46.04.030;

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1 hazardous substance into the environment of the state:

2 (A) agencies of the state;

3 (B) municipalities of the state;

4 (C) appropriate federal agencies;

5 (D) operators of facilities;

6 (E) private parties whose land and other property may

7 be affected by the oil or hazardous substance discharge; and

8 (F) other parties identified by the division [COMMIS-

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10 the containment and cleanup of an oil or hazardous substance

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8 annually review and revise a regional master oil and hazardous sub-
9 stance discharge and prevention contingency plan.

10 * Sec. 7. AS 46.08.040 is amended by adding a new subsection to read:

11 (b) The commissioner shall, on request of the commissioner of
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13 incurred by the division of emergency services, Department of Military
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