

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9234 HOUSE JUDICIARY

Sunday 2/16/97



Jessica Ely



Corey Ely

Transplants a salve in Ely tragedy

By DANIELLE STANTON
Denain News reporter

Two Outside children are alive today because of heart tissue donated by 5-year-old Jessica Ely, who was fatally shot by her father last year, family members said Friday.

Jessica's aortic heart valve was transplanted into a 3-year-old Chicago girl a few days before Monday when Jessica would have turned 6 years old. Her pulmonary valve was given to a 4-day-old Seattle boy in late November.

"It makes me feel really good that there are two (children) out there that are alive due to my kids," Jessica's mother, Christina, said. "It makes me feel like they're still kind of alive."

Both children are in good condition, said Jens Saakvitne, director of Life Alaska Treatment in Anchorage.

"It's a little bit of nice on a godawful situation," Saakvitne said.

Jessica and her 4-year-old brother, Corey, were shot to death last October by their father, Paul Ely Jr. The elder Ely also killed an Anchorage police officer before killing himself. Christina Ely suffered a gunshot wound during the attack.

Life Alaska approached Christina Ely while she was in the hospital. The decision was easy, she said Friday. "They asked if I wanted to donate the kids' organs, and I said, 'Yes, if it will help another kid's life, then that's what I'd like to do.'"

"I would never ever want any parent to go through what I went through, and now their kids are alive," she said.

Two of Corey's heart valves also will be transplanted when a matching recipient is found, Saakvitne said.

Alaska may have the highest rate of organ and tissue donors per capita in the Northwest, Saakvitne said, based on his experience in the business. No official numbers are recorded, he said.

Last year alone Alaska had 72 heart valve donors, he said.

"Most families approached about donating, despite their pain, are willing to make a father's gift," Saakvitne said.

Life Alaska, Inc.

Tissue Procurement Service
P. O. Box 230785
Anchorage, AK 99523
1-907-562-5433 • 1-800-719-5433
Fax 1-907-562-5333



February 14, 1997

ATTN: The Honorable Senator Robin Taylor
Chair, Senate Judiciary Committee
Health Education and Social Services

FROM: Fran McNeill
Family Care Coordinator
Life Alaska, Inc.

RE: Senate Bill 38

My name is Fran McNeill. I am employed by Life Alaska, Inc. as the Family Care Coordinator. I am here today in place of my Director, Jens Saakvitne, who had a medical emergency.

Life Alaska, Inc. supports Senate Bill 38. This bill facilitates the communication of an individual's wishes regarding living wills, do not resuscitate orders, and anatomical gifts. It supports individual autonomy and self-determination and respects the individual's right to make this very personal decision. Furthermore, it ensures that people will have an opportunity to make these choices independent of crisis and would encourage them to discuss their decisions with family members. The family burden is eased by knowing what a loved one wants, and families may approach these decisions knowing that they have honored their loved one's request.

Sincerely,

A handwritten signature in cursive script that reads "Fran McNeill".

Fran McNeill
Family Care Coordinator

Life Alaska, Inc.

Tissue Procurement Service
P. O. Box 230785
Anchorage, AK 99523
1-907-562-5433 • 1-800-719-5433
Fax 1-907-562-5333



RECEIVED FEB 20 1997

February 17, 1997

The Honorable Robin Taylor
Room 30
State Capitol
Juneau, AK 99801-1182

RE: SB38

Dear Senator Taylor:

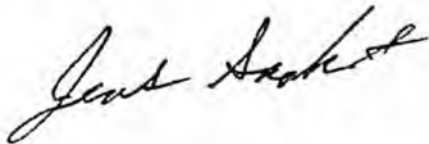
Regarding the amendment to Sec.3. AS 13.50.030 addressing persons or agencies authorized to remove or transplant part of a decedent's body:

- ◆ It is accepted practice in all fifty states for trained non-physician technical staff to procure tissues such as corneas, heart-valves, bone, and skin from non-heartbeating cadavers.
- ◆ While most states do not address the issue, it is universal practice for medically licensed surgeons to perform the more technically complex organ procurement such as kidney, heart, and liver donation.
- ◆ All tissue and organ transplant into living patients must be performed by licensed physicians. Typically, surgery is performed by specially trained transplant surgeons.
- ◆ In Alaska, trained technical staff have performed all tissue donations. Several MDs have assisted in training the local staff.
- ◆ In Alaska, surgeons who fly up from Seattle, Portland, or California perform most organ donation surgery. Occasionally, kidneys are procured by an Alaska surgeon who has received specific training.
- ◆ Life Alaska would welcome the assistance of a physician in Wrangle, Bethel or anywhere else performing donor surgery if we cannot arrive in time, or working with us if they have an interest. This has happened several times already.
- ◆ Organs and tissues are given to the most medically urgent person waiting for a transplant. Potential tissue and organ recipients decide who their transplant surgeon will be.
- ◆ Donation surgery is typically done by whatever tissue or organ bank provides donor coverage for that region. The Tissue or organ bank will send the technician or surgeon on call to perform the donation surgery.

Because the donor technician or surgeon is decided by which transplant agency covers an area, nearly all states have deleted the concept of designating the surgeon or physician (or even agency) to remove a part of a donor's body. Donors are universally allowed to designate a particular recipient if they desire (most don't designate, which allows the tissue or organ to be placed with the most urgent recipient). The amended wording (including "appropriate Alaska organ or tissue bank or") will not have any negative effect.

I hope this is helpful in clarifying current practices. Thank you again for all of your efforts in support of donation, transplantation and the families. Please call me at any time with questions or concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jens Saakvitne".

Jens Saakvitne
Director

United Network for Organ Sharing

1

Transplants performed between January 1, 1988 and September 30, 1996

Reported Patient State of Residency: ALASKA
By Year and Organ

Year of Transplant	Organ					Total
	Heart	Kidney	Liver	Lung	Pancreas	
1988	3	1	2	1	0	7
1989	3	6	3	0	0	12
1990	3	10	6	0	0	19
1991	4	21	6	1	1	33
1992	3	13	4	0	1	21
1993	5	15	11	2	0	33
1994	1	18	4	1	0	24
1995	6	24	6	2	0	38
1996	2	15	1	2	0	20
Total	20	123	43	9	2	207

Based on UNOS OPTN/Scientific Registry Data as of January 27, 1997
Data subject to change due to future data submission or correction

United Network for Organ Sharing
 Number of Registrations on the Wait List from Reported Residents of Alaska

Organ					
Heart	Kidney	Kidney-Pancreas	Liver	Lung	Total
Number of Registrations	Number of Registrations	Number of Registrations	Number of Registrations	Number of Registrations	Number of Registrations
2	51	2	12	1	68

Based on UNOS OPTN/Scientific Registry data as of January 27, 1997
 Data subject to change based on future data submission or correction.

Alaska State Legislature

Chairman,
Judiciary Committee

Member,
Resources Committee
Rules Committee
Committee on Committees



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Juneau, Alaska 99801-1182
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352 Front Street
Ketchikan, Alaska 99901
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Senator Robin L. Taylor

MEMORANDUM

To: Representative Joe Green, Chairman
House Judiciary Committee

From: Senator Robin L. Taylor *R.L.T.*

Date: 3/24/97

Ref: Suggested CS - Senate Bill 38

Please consider the attached committee substitute for Senate Bill 38.

The regional clearing house for organ transplant, LifeCenter Northwest, requested the change which appears on page 4, beginning at line 6 of this draft.

Many people who have living wills do not want their lives sustained by procedures that merely prolong the dying process. Many of these same people also want to become organ donors in the event of their death.

This committee substitute allows time for the evaluation of such a person as a suitable candidate for organ donation before a do not resuscitate order is carried out.

I would appreciate the opportunity to explain this CS to your committee at your earliest convenience.

0-LS0183VH
Bannister
3/13/97

HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 38()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to anatomical gifts, living wills, and do not resuscitate orders."

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

3 * Section 1. AS 13.50.010(a) is amended to read:

4 (a) A competent person [OF SOUND MIND] who is 18 or more years of age
5 may make a gift to take effect upon death [,] of all or a part of the person's body for
6 a purpose specified in AS 13.50.020.

7 * Sec. 2. AS 13.50.030(b) is repealed and reenacted to read:

8 (b) A gift of all or a part of the body under AS 13.50.010(a) may be made by
9 a document other than a will, and including a declaration under AS 18.12. The gift
10 takes effect upon the death of the donor. The document, which may be a card
11 designed to be carried on the person, shall be signed by the donor, or another person
12 at the donor's direction. If signed by another person at the donor's direction, the
13 signer shall sign in the presence of two persons or a person who is qualified to take
14 acknowledgments under AS 09.63.010. Delivery of the document of gift during the
15 donor's lifetime is not necessary to make the gift valid.

1 * Sec. 3. AS 13.50.030(d) is amended to read:

2 (d) The donor may designate in a will, card, or other document of gift,
3 including a declaration under AS 18.12, the surgeon or physician to carry out the
4 appropriate procedure for removing or transplanting a part of the decedent's body. In
5 the absence of a designation or if the designee is not available, the donee or other
6 person authorized to accept the gift may employ or authorize any surgeon, any [OR]
7 physician, or any appropriate Alaska organ or tissue bank, for the purpose of
8 removing or transplanting a part of the decedent's body.

9 * Sec. 4. AS 13.50.030 is amended by adding a new subsection to read:

10 (f) A gift may, but need not be, in the following form:
11 In the event of my death, I donate the following part(s)
12 of my body for the purposes identified in AS 13.50.020:

13 Tissue:
14 _____ Eyes
15 _____ Bone and connective tissue
16 _____ Skin
17 _____ Heart
18 _____ Other: _____

19 Limitations: _____

20 Organ:
21 _____ Heart
22 _____ Kidney(s)
23 _____ Liver
24 _____ Lung(s)
25 _____ Pancreas
26 Other: _____

27 I designate _____ (name of surgeon or physician)
28 to carry out the appropriate procedure(s) for removing or
29 transplanting the body part(s) identified above.

30 * Sec. 5. AS 13.50.050 is amended by adding a new subsection to read:

31 (d) A gift made in a declaration under AS 18.12 may be amended as provided

1 in (a) of this section, and may be revoked as provided in AS 18.12.020(a) or in (a) of
2 this section.

3 * Sec. 6. AS 13.50 is amended by adding a new section to read:

4 **Sec. 13.50.075. Recognition of gifts executed, issued, or authorized in other**
5 **states.** A gift executed, issued, or authorized in another state or a territory or
6 possession of the United States in compliance with the law of that jurisdiction is
7 effective for the purposes of this chapter.

8 * Sec. 7. AS 18.12.010(a) is repealed and reenacted to read:

9 (a) A competent person who is at least 18 years old may execute a declaration
10 at any time directing that life-sustaining procedures be withheld or withdrawn from
11 that person. The declaration is given operative effect only if the declarant's condition
12 is determined to be terminal and the declarant is not able to make treatment decisions,
13 except that, if the declaration contains an anatomical gift under AS 13.50, the gift
14 takes effect upon the death of the person. The declaration shall be signed by the
15 declarant, or another person at the declarant's direction. If signed by another person
16 at the declarant's direction, the signer shall sign in the presence of two persons or a
17 person who is qualified to take acknowledgements under AS 09.63.010. A person may
18 not charge a fee for preparing a declaration.

19 * Sec. 8. AS 18.12.010(b) is amended to read:

20 (b) Except as provided under AS 13.50.014 - 13.50.016 for an anatomical
21 gift contained in the declaration, it [IT] is the responsibility of the declarant to
22 provide a copy of the declaration to the declarant's physician. A physician or other
23 health care provider who is provided a copy of the declaration shall make it a part of
24 the declarant's medical records.

25 * Sec. 9. AS 18.12.010(c) is amended to read:

26 (c) A declaration may, but need not, be in the following form:

27 **DECLARATION**

28 If I should have an incurable or irreversible condition that will
29 cause my death within a relatively short time, it is my desire that my
30 life not be prolonged by administration of life-sustaining procedures.

31 If my condition is terminal and I am unable to participate in

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decisions regarding my medical treatment, I direct my attending physician to withhold or withdraw procedures that merely prolong the dying process and are not necessary to my comfort or to alleviate pain. I [] do [] do not desire that nutrition or hydration (food and water) be provided by gastric tube or intravenously if necessary.

Notwithstanding the other provisions of this declaration, if I have donated an organ under this declaration or by another method, I do not want a do not resuscitate order to take effect until the donated organ can be evaluated to determine if the organ is suitable for donation.

OPTIONAL: In the event of my death, I donate the following part(s) of my body for the purposes identified in AS 13.50.020:

Tissue:

- _____ Eyes
- _____ Bone and connective tissue
- _____ Skin
- _____ Heart
- _____ Other: _____

Limitations: _____

Organ:

- _____ Heart
- _____ Kidney(s)
- _____ Liver
- _____ Lung(s)
- _____ Pancreas
- _____ Other: _____

Signed this _____ day of _____, _____.

Signature _____

Place _____

If another person is to sign for the declarant at the

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declarant's direction, the person signing for the declarant must sign in the presence of two persons or a person who is qualified to take acknowledgments under AS 09.63.010. The witness form below may be used for the two witnesses. The acknowledgement form below may be used for the person qualified to take acknowledgements. [THE DECLARANT IS KNOWN TO ME AND VOLUNTARILY SIGNED OR VOLUNTARILY DIRECTED ANOTHER TO SIGN THIS DOCUMENT IN MY PRESENCE.]

WITNESS FORM

Witness _____
Address _____
Witness _____
Address _____
State of _____
_____ Judicial District

ACKNOWLEDGEMENT FORM

The foregoing instrument was acknowledged before me this (date) by (name of person who acknowledged).

Signature of Person Taking
Acknowledgement

Title or Rank

Serial Number, if any

[THIS DECLARATION MUST BE EITHER WITNESSED BY TWO PERSONS OR ACKNOWLEDGED BY A PERSON QUALIFIED TO TAKE ACKNOWLEDGEMENTS UNDER AS 09.63.010].

* Sec. 10. AS 18.12.010(d) is amended to read:

(d) A physician or health care provider may presume, in the absence of actual notice to the contrary, that the declaration complies with this chapter, that an

1 anatomical gift in the declaration complies with this chapter and AS 13.50, and
2 that the declaration, including any anatomical gift contained in the declaration,
3 is valid.

4 * Sec. 11. AS 18.12.020(a) is amended to read:

5 (a) Except as provided in AS 13.50.050 for an anatomical gift, a [A]
6 declaration may be revoked at any time and in any manner by which the declarant is
7 able to communicate an intent to revoke, without regard to mental or physical
8 condition. A revocation is only effective as to the attending physician or any health
9 care provider acting under the guidance of that physician upon communication to the
10 physician or health care provider by the declarant or by another to whom the
11 revocation was communicated.

12 * Sec. 12. AS 18.12.035 is amended by adding a new subsection to read:

13 (d) Notwithstanding (c) of this section, if a person has made an anatomical gift
14 of an organ under AS 13.50 or this chapter, a do not resuscitate order may not be
15 implemented until the donated organ can be evaluated to determine if it is suitable for
16 donation.

17 * Sec. 13. AS 18.12.037 is amended to read:

18 **Sec. 18.12.037. Living will, organ donation, and DNR identification.** The
19 Department of Health and Social Services shall develop standardized designs and
20 symbols for DNR identification cards, forms, necklaces, and bracelets that signify,
21 when carried or worn, that the possessor has executed a declaration under this chapter,
22 that the declaration contains an anatomical gift, or that the possessor is a patient
23 for whom a physician has issued a do not resuscitate order.

24 * Sec. 14. AS 18.12.090 is amended to read:

25 **Sec. 18.12.090. Recognition of declarations and orders executed, [OR]**
26 **issued, or authorized in other states.** A declaration, including a declaration
27 containing an anatomical gift, do not resuscitate order, or DNR identification
28 executed, issued, or authorized in another state or a territory or possession of the
29 United States in compliance with the law of that jurisdiction is effective for purposes
30 of this chapter.

31 * Sec. 15. AS 18.12.100 is amended by adding a new paragraph to read:

1 (12) "anatomical gift" means an anatomical gift under AS 13.50.

2 * Sec. 16. AS 18.65.311 is amended to read:

3 Sec. 18.65.311. Anatomical gift or living will. (a) The department shall
4 provide, at the time that an identification card is issued, a form for a document by
5 which the card holder may make an anatomical gift under AS 13.50 (Uniform
6 Anatomical Gifts Act) or a living will under AS 18.12 (Living Wills and Do Not
7 Resuscitate Orders). The document (1) may not be larger than an identification card,
8 (2) must contain sufficient space for the signature of two witnesses or a person who
9 is qualified to take acknowledgments under AS 09.63.010. [TO THE DONOR'S
10 ACT IF THE DONOR CANNOT SIGN, AND] (3) must use the forms and designs
11 developed under AS 18.12.037, and (4) must provide a means by which the card
12 holder [DONOR] may cancel the gift or the living will. If the document [MAKING
13 AN ANATOMICAL GIFT] is executed by the applicant, it shall be sealed in plastic
14 and attached to the identification card. A symbol developed under AS 18.12.037
15 indicating the existence of the anatomical gift or living will document must be
16 displayed in the lower right-hand corner on the face of the identification card.

17 (b) An employee of the department who processes an identification card
18 application, other than an application received by mail, shall ask the applicant orally
19 whether the applicant wishes to execute an anatomical gift or a living will. The
20 department shall, by placement of posters and brochures in the office where the
21 application is taken, and by oral advice, if requested, make known to the applicant the
22 procedure necessary to execute a gift under AS 13.50 or a living will under AS 18.12.

23 * Sec. 17. AS 28.10.021(c) is amended to read:

24 (c) An employee of the department who processes an application for
25 registration or renewal of registration, other than an application received by mail, shall
26 ask the applicant orally whether the applicant wishes to execute an anatomical gift or
27 a living will. The department shall make known to all applicants the procedure for
28 executing a gift under AS 13.50 (Uniform Anatomical Gifts Act) or a living will
29 under AS 18.12 (Living Wills and Do No Resuscitate Orders) by displaying posters
30 in the offices in which applications are taken, by providing a brochure or other written
31 information to each person who applies in person or by mail, and, if requested, by

1 providing oral advice.

2 * Sec. 18. AS 28.15.061(d) is amended to read:

3 (d) An employee of the department who processes a driver's license
4 application, other than an application received by mail, shall ask the applicant orally
5 whether the applicant wishes to execute an anatomical gift or a living will. The
6 department shall make known to all applicants the procedure for executing a gift under
7 AS 13.50 (Uniform Anatomical Gifts Act) or a living will under AS 18.12 (Living
8 Wills and Do Not Resuscitate Orders) by displaying posters in the offices in which
9 applications are taken, by providing a brochure or other written information to each
10 person who applies in person or by mail, and, if requested, by providing oral advice.

11 * Sec. 19. AS 28.15.111(b) is amended to read:

12 (b) The department shall provide, at the time that an operator's license is
13 issued, a form for a document by which the owner of a license may make an
14 anatomical gift under AS 13.50 or a living will under AS 18.12. The document (1)
15 may not be larger than an operator's license, (2) must contain sufficient space for the
16 signature of two witnesses or a person who is qualified to take acknowledgments
17 under AS 09.63.010, [TO THE DONOR'S ACT OF EXECUTION OF THE
18 DOCUMENT, AND] (3) must use the forms and designs developed under
19 AS 18.12.037, and (4) must provide a means by which the owner [DONOR] may
20 cancel the gift or the living will. If the document [MAKING AN ANATOMICAL
21 GIFT] is executed by the applicant, it shall be sealed in plastic and attached to the
22 license. A symbol developed under AS 18.12.037 indicating the existence of the
23 anatomical gift or living will document must be displayed in the lower right-hand
24 corner on the face of the driver's license.

Alaska State Legislature

Chairman,
Judiciary Committee

Member,
Resources Committee
Rules Committee
Committee on Committees



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Senator Robin L. Taylor

MEMORANDUM

**To: Representative Joe Green, Chairman
House Judiciary Committee**

From: Senator Robin L Taylor *R.L.T.*

Date: 3/14/97

Ref: Proposed Committee Substitute - SB 38

This is in follow-up to my request for a hearing on SB 38.

In reviewing SB 38 with representatives of LifeCenter Northwest, the regional organ donor bank, we discovered a flaw in section 9 of the bill.

Attached is a suggested committee substitute which corrects the problem.

The new language appears on page 4, beginning at line 6. It insures that the wishes of an organ donor will be carried out by providing time to evaluate the suitability of a donor organ.

For clarification, organ donations are those intended for transplant which must be harvested at the time of death. Tissue donations can be made for a longer period of time after death.

Please contact me or Joe Ambrose if you have questions.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

SB38 - Organ Donation

We have ~~offnet~~ witness

→ Karyn Denton online
from Life Center

→ Joe Ambrose is here
for SB38 Sponsor

→ Jens Saakvitne
in Anch L10

SB3

I heard Sen Pearce is on
the floor

I called Martin's office &
witnesses for HB 234
and told them we would
NOT hear that Bill

S B

3 9

51339

Kurt Fredrickson @ DEC

4/24/97

Inserted DEC as coordinator & manager of reports

- DEC wanted to be taken out of loop

- Local reporting reqs

amends - Take DEC out of loop

Give local govt discretion

Annette Kreizer

Trying to reinsert DEC?

Fed law reqs reporting to Fire Dept

DMVA is their staff

DEC receives - but does nothing with

Only one reporting form from EPA

- Fed form + local req

if Arch wants local business

SERC -> if State Em. Resp. Comm.

Feds may not req

Larry Detrich

Emerg Resp Program Mgr

SB 39

Annette Kreitzer 3844

that Res. Comm. not report more than what req

April 22 Empire reports

Fed govt expanding facilities
&

→ Statewide - emerg. resp commission

Chief Nolan aware

had personal exp @ gas exploding
pre-fire planning

No facilities req to report under
fire code

report only what feds req

Title 18 - State req

SERCLA reporting

MSDS OSHA - reporting

MOAreh has own form

Everyone agrees fire fighters need info

[SERC has control of form

Dept of Military & Veterans Affairs

DEC on Bd - SERC doesn't have office

Tier Forms go to DEC

Arch Code doesn't cover entire area
Leidwood, Eagle River etc not covered
even though that are covered
response

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HCS CSSB 39 (JUD)

Revision Date: 9-May-97
 Title: An act relating to hazardous chemicals,
 hazardous materials, and hazardous waste
 Sponsor: Senator Leman
 Requestor: House Judiciary

Department Affected: Environmental
 Conservation
 BRU: Spill Prevention and Response
 Component: Prevention and Emergency Response

COMPONENT SERIAL NO. 2064

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS:

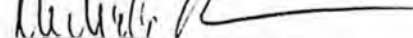
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

See attached page.

Prepared by: Kurt Fredriksson, Director
 Division: Spill Prevention and Response

Phone: 465-5250
 Date: 5/9/97

Approved by Commissioner: 
 Agency: Department of Environmental Conservation

Date: 5/9/97

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HCS CSSB39 (JUD)

Fiscal Note -- ANALYSIS

This fiscal note is based on the Department's interpretation that it will not be in charge of the new state reporting system proposed in this legislation. This is consistent with amendments made in CS for Senate Bill No. 39(JUD) and is acknowledged by the Director's letter of February 24, 1997 which was entered into the record.

Currently the Department receives Tier II reports on behalf of the State Emergency Response Commission (SERC). Upon receipt the Department stores the reports and periodically uses the information to update the Statewide Hazards Analysis. The Department will continue to carry out this function even though staff responsibility for the SERC was transferred to DMVA by SB 33. It is further understood that it is not the intent of this legislation that the department implement, distribute, maintain, or manage the new state reporting system proposed for development in this bill.

To do this the Department would need an estimated 1.0 FTE and 175.0 in Line 100-500 funding in FY 98 and subsequent years to implement HCS CSSB39 (JUD). Funding requirements would remain constant in subsequent years, assuming few or no changes to the program. Should the Department be required to implement or manage the state reporting system, an additional 1.0 FTE would be needed and would be responsible for:

Technical assistance to businesses

Current State reporting requirements are identical to the federal requirements, and the State uses the federal Tier Two reporting form, guidance, and the EPA-funded technical assistance hotline. In

Since the Department and the sponsors of the legislation agree it is not intended that DEC implement or manage the new state reporting system, a zero fiscal note is proposed and the resources to carry out the functions described above will not be needed.

L:\LEGISLATIVE\SENATE\97\CSSB40.WPD

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

HCS CSSB39 (JUD)

Fiscal Note -- ANALYSIS

This fiscal note is based on the Department's interpretation that it will not be in charge of the new state reporting system proposed in this legislation. This is consistent with amendments made in CS for Senate Bill No. 39(JUD) and is acknowledged by the Director's letter of February 24, 1997 which was entered into the record.

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Technical assistance to businesses

Current State reporting requirements are identical to the federal requirements, and the State uses the federal Tier Two reporting form, guidance, and the EPA-funded technical assistance hotline. In

addition to the resources available from the EPA, there are several private companies that produce guidebooks, software and other aids for complying with federal Tier Two reporting requirements.

The proposed legislation would require the state to develop its own Tier Two form and the State would no longer be able to rely on federal and private resources to help provide technical assistance to businesses. Instead, the Department would need to provide technical assistance to help businesses comply with State requirements. This would involve developing regulations; developing guidance documents; providing training to businesses; and answering additional questions received by phone or in writing.

Information Management

The State currently uses CAMEO, a database program developed and supported by the federal government, to electronically manage Tier Two chemical inventory information. Because of the lack of consistency between the state and federal reporting requirements, the State would need to develop and support a custom database application to electronically manage the information that would be reported on the new form required under HCS CSSB39 (JUD).

Coordination with the SFRC, LEPCs and Local Governments

HCS CSSB39 (JUD) authorizes a local government to require a different list of reportable substances and lower reportable quantities, provided the modifications are approved by the State Emergency Response Commission (SERC). It is assumed that the Department, on behalf of the SERC, would need to track the potentially different reporting requirements within various local jurisdictions in order to provide technical assistance to reporting facilities.

Since the Department and the sponsors of the legislation agree it is not intended that DEC implement or manage the new state reporting system, a zero fiscal note is proposed and the resources to carry out the functions described above will not be needed.

L:\LEGISL\SENATE\97\CSSB\40.WPD

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HCS CSSB 39(JUD)

Revision Date: _____
 Title: An act relating to hazardous chemicals,
hazardous materials, and hazardous waste
 Sponsor: Senator Leman
 Requestor: House Judiciary

Department Affected: Environmental
Conservation
 BRU: Spill Prevention and Response
 Component: Prevention and Emergency Response

COMPONENT SERIAL NO. 2064

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	70.0	70.0	70.0	70.0	70.0	70.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	95.0	95.0	95.0	95.0	95.0	95.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	5.0	5.0	5.0	5.0	5.0	5.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	175.0	175.0	175.0	175.0	175.0	175.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other (Response Fund)	175.0	175.0	175.0	175.0	175.0	175.0
TOTAL	175.0	175.0	175.0	175.0	175.0	175.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

See attachment

Prepared by: Kurt Fredriksson, Director
 Division: Spill Prevention and Response

Phone: 465-5250
 Date: 5/6/97

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

Date: 5/6/97

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HCS CSSB39 (JUD)

Fiscal Note -- ANALYSIS

This fiscal note is based on information from the sponsor following the House Judiciary Committee hearing May 1, 1997. While the Department had interpreted that it would not be in charge of the new state reporting system, we understand from the sponsor that it is the intent of this legislation that the department receive, maintain, and manage the reporting system proposed for development in this bill.

The Department would need an estimated 1.0 FTE and 175.0 in Line 100-500 funding in FY 98 and subsequent years to implement HCS CSSB39 (JUD). Funding requirements will remain constant in subsequent years, assuming few or no changes to the program. The additional 1.0 FTE would be responsible for:

- **Technical assistance to businesses**

Current State reporting requirements are identical to the federal requirements, and the State uses the federal Tier Two reporting form, guidance, and the EPA-funded technical assistance hotline. In addition to the resources available from the EPA, there are several private companies that produce guidebooks, software and other aids for complying with federal Tier Two reporting requirements.

However, the proposed legislation would require the state to develop its own Tier Two form and the State would no longer be able to rely on federal and private resources to help provide technical assistance to businesses. Instead, the Department would need to provide technical assistance to help businesses comply with State requirements. This would involve developing regulations;

05/01/97 12:56:10 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCJEN IN ANCHORAGE

LTN1120
JNU

RE TCN: 70741 SCHEDULED FOR: 05/01/97 13:00 TO 16:00
SPONSOR: HOUSE JUDICIARY PURPOSE: PUBLIC HEARING

MESSAGE TEXT: RITA VENTA OF3, IS ON LINE TO T ON SB 39

*Anch. Fire Dept. wants compressed gas included
for Carol Foster
request by Fire Chief Nolan
• anhydrous ammonia
• chlorine*

05/01/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

13:16:46 PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:70741 SCHEDULED FOR: 05/01/97 13:00 TO 16:00

FOR:ANC

PUBLIC HEARING HOUSE JUDICIARY

LOCATION: ANCHORAGE

SB 39	CRAIG	GOODRICH	FIRE MARSHALL	TESTIFY
SB 70	BLAIR	MCCUNE		TESTIFY
HB 31	BOB	MINTZ		TESTIFY
HB 31	GAIL	VOIGTLANDER		TESTIFY
HB 199	BOB	MANLEY		TESTIFY

(7)
Date Referred to Committee: February 21, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 5/1/97

The JUDICIARY Committee considered:

CSSB 39(JUD)

CS FOR SENATE BILL NO. 39(JUD)

HAZARDOUS CHEMICALS, MATERIALS, AND WASTE

"An Act relating to hazardous chemicals, hazardous materials, and hazardous waste."

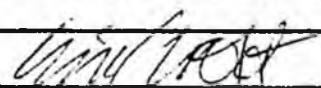
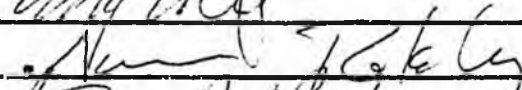
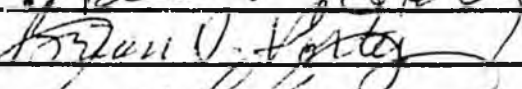

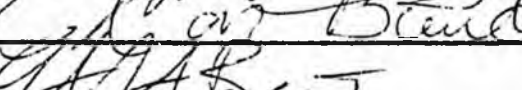
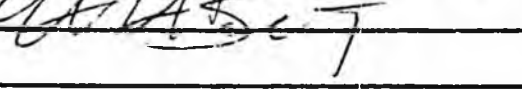
recommends it be replaced with the following committee substitute HCS CSSB 39(JUD) the same title a new title

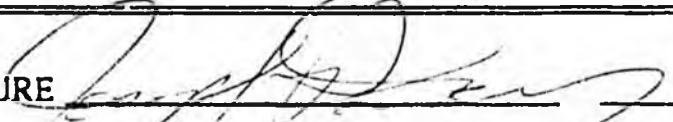
additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) DEC, EDUC., LAW
& PUB. SAFETY

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	CROFT			✓	
	ROKEBERG	✓			
	PORTER			✓	
	GREEN			✓	
	BUNDE			✓	
	BERKOWITZ			✓	

CHAIR'S SIGNATURE 

HOUSE CS FOR CS FOR SENATE BILL NO. 39(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS LEMAN, Kelly, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to hazardous chemicals, hazardous materials, and hazardous
2 waste."

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

4 * Section 1. AS 09.65 is amended by adding a new section to read:

5 Sec. 09.65.240. Liability of the state and regional educational attendance
6 areas for release of hazardous substances. (a) Notwithstanding AS 46.03.822(a),
7 neither the state nor a regional educational attendance area established under AS 14.08,
8 nor an agent or employee of the state or a regional educational attendance area acting
9 within the scope of that agency or employment, is subject to liability under
10 AS 46.03.822 for damages, as defined in AS 46.03.822(k) and 46.03.824, for the
11 release of a hazardous substance at or from any facility used in relation to a regional
12 educational attendance area school as described in AS 14.08.151 or at or from any
13 facility used in relation to a school operated by the state under AS 14.16.

14 (b) In this section,

1 (1) "facility" has the meaning given in AS 46.03.826;

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

3 * Sec. 2. AS 18.70.090 is amended to read:

4 Sec. 18.70.090. **Enforcement authority.** The Department of Public Safety and
5 the chief of each fire department recognized under regulations adopted by the
6 Department of Public Safety, and their authorized representatives in their respective
7 areas, may enforce the regulations adopted by the Department of Public Safety for the
8 prevention of fire or for the protection of life and property against fire or panic. All
9 state peace officers may assist the Department of Public Safety in the enforcement of
10 AS 18.70.010 - 18.70.100 [, 18.70.310,] and the regulations adopted under those
11 sections. The authority conferred in AS 18.70.010 - 18.70.100 [AND 18.70.310]
12 extends to the enforcement of the provisions of AS 11.46.400 - 11.46.410.

13 * Sec. 3. AS 18.70.100(a) is amended to read:

14 (a) A person who violates a provision of AS 18.70.010 - 18.70.100
15 [, 18.70.310,] or a regulation adopted under those sections, or who fails to comply with
16 an order issued under AS 18.70.010 - 18.70.100, [OR 18.70.310] is guilty of a class
17 B misdemeanor. When not otherwise specified, each 10 days that the violation or
18 noncompliance continues is a separate offense.

19 * Sec. 4. AS 26.23.071(e) is amended to read:

20 (e) The commission shall

21 (1) serve as the state emergency response commission required under
22 42 U.S.C. 11001 - 11005;

23 (2) facilitate the preparation and implementation of all emergency plans
24 prepared by state agencies under other authorities; the statewide, interjurisdictional, and
25 local plans prepared under this chapter; and the state and regional plans prepared under
26 AS 46.04.200 - 46.04.210;

27 (3) review the plans described in (2) of this subsection according to the
28 criteria established in AS 26.23.077;

29 (4) designate, and revise as necessary, the boundaries of emergency
30 planning districts under AS 26.23.073;

31 (5) establish a local emergency planning committee under

1 AS 26.23.073(d) for each emergency planning district;

2 (6) supervise and coordinate the activities of local emergency planning
3 committees;

4 (7) establish procedures for receiving and processing requests from the
5 public for information under 42 U.S.C. 11044, including tier II information under
6 42 U.S.C. 11022; procedures established under this paragraph shall designate the
7 Department of Environmental Conservation as the state agency to receive and
8 process these requests on behalf of the commission;

9 (8) review reports about responses to disaster emergencies and make
10 recommendations to the appropriate parties involved in the response concerning
11 improved prevention and preparedness;

12 (9) perform other coordinating, advisory, or planning tasks related to
13 emergency planning and preparedness for all types of hazards, community right-to-
14 know reporting, toxic chemical release reporting, or management of hazardous
15 substances;

16 (10) recommend procedures to integrate, as appropriate, hazardous
17 substance response planning under 42 U.S.C. 11001 - 11005, federal contingency
18 planning under 33 U.S.C. 1321 and other federal laws applicable to hazardous
19 substance discharges, and state, regional, and local planning under this chapter and
20 AS 46.04.200 - 46.04.210;

21 (11) to the extent consistent with the constitution and law of the state,
22 perform all other functions prescribed for state emergency response commissions under
23 42 U.S.C. 11001 - 11005; and

24 (12) adopt regulations necessary to carry out the purposes of
25 AS 26.23.071 - 26.23.077 and 42 U.S.C. 11001 - 11005.

26 * Sec. 5. AS 29.35.500(a) is amended to read:

27 (a) If a municipality establishes a program for the reporting of hazardous
28 chemicals, hazardous materials, and hazardous wastes, then the municipality shall
29 require a business or a government agency that handles hazardous chemicals,
30 hazardous materials, or hazardous wastes to submit to a designated person or office of
31 the municipality, on a form approved by the Alaska State Emergency Response

1 Commission [DEPARTMENT OF PUBLIC SAFETY, DIVISION OF FIRE
2 PREVENTION], an inventory of the hazardous chemicals, hazardous materials, and
3 hazardous wastes the business or government agency handles. Notwithstanding other
4 provisions of this title, a municipality that establishes a program for the reporting
5 of hazardous chemicals, hazardous materials, and hazardous wastes may not

6 (1) use a form other than the one required under this section or use
7 a form in addition to the one required under this section;

8 (2) require a business or government agency to submit an inventory
9 of hazardous chemicals, hazardous materials, and hazardous wastes unless the
10 business or government agency is required to do so by the Alaska State
11 Emergency Response Commission;

12 (3) require reporting under this section of a substance not listed in
13 (c) of this section unless it is added by the commission under (c) of this section;

14 (4) require reporting under this section of a substance that is in
15 smaller quantities than provided under (c) of this section unless the reporting of
16 smaller quantities is approved by the commission under (c) of this section.

17 * Sec. 6. AS 29.35.500(c) is amended to read:

18 (c) Unless the Alaska State Emergency Response Commission or a
19 municipality, after public hearing, removes a substance listed in this subsection
20 from the reporting requirements within its jurisdiction, or unless the commission,
21 after public hearing, adds a substance to the reporting requirements of this
22 subsection or requires the reporting of smaller quantities of the substances listed
23 in this subsection, either on a statewide basis or for reporting within particular
24 municipalities, the [THE] following quantities of hazardous chemicals, hazardous
25 materials, and hazardous wastes shall be reported in an inventory required under this
26 section [, AND THE DIVISION OF FIRE PREVENTION OR A MUNICIPALITY
27 MAY REQUIRE THE REPORTING OF SMALLER QUANTITIES];

28 (1) any quantity of a hazardous material of the hazard class identified
29 in federal placarding regulations as [OF]

30 (A) [POISON A;

31 (B)] Poison Gas Hazard Division No. 2.3 and Poisons 6.1 [B];

- 1 (B) Explosives 1.1 [(C) CLASS A EXPLOSIVE];
- 2 (C) Explosives 1.2 and 1.3, excluding smokeless gunpowder,
- 3 black powder, and ammunition [(D) CLASS B EXPLOSIVE];
- 4 (D) [(E)] Flammable solid Divisions 4.1, 4.2, and 4.3
- 5 [(DANGEROUS WHEN WET)]; or
- 6 (E) [(F)] Radioactive Hazard Class 7:
- 7 (2) [A CONSUMER COMMODITY OF A HAZARDOUS MATERIAL
- 8 IN A QUANTITY OF MORE THAN 1,000 POUNDS;
- 9 (3)] a hazardous chemical, or a hazardous material other than one
- 10 described in (1) of this subsection, if handled in a single day in an amount equal to or
- 11 greater than 10,000 [500] pounds;
- 12 (3) [(4) ACUTE HAZARDOUS WASTE IN A QUANTITY OF 2.2
- 13 POUNDS OR MORE;
- 14 (5) HAZARDOUS WASTE IN A QUANTITY OF 220 POUNDS OR
- 15 MORE; AND
- 16 (6)] extremely hazardous substances in a quantity equal to or more than
- 17 500 pounds or the threshold planning quantity, whichever is less; and
- 18 (4) [(7)] compressed gasses equal to or more than 1,000 [200] cubic
- 19 feet at standard temperature and pressure.

20 * Sec. 7. AS 29.35.510 is amended to read:

21 **Sec. 29.35.510. Inspections; penalties.** A municipality may conduct

22 inspections, and establish and impose penalties, necessary to ensure compliance with

23 reporting requirements adopted under AS 29.35.500 [AND PLACARDING

24 REQUIREMENTS ADOPTED UNDER AS 18.70.310].

25 * Sec. 8. AS 29.35.520 is amended to read:

26 **Sec. 29.35.520. Fees.** A municipality may impose appropriate fees to fully or

27 partially compensate for the cost of processing reports and administering inspections

28 under AS 29.35.500 - 29.35.510 [AND THE COST OF PROVIDING PLACARDS

29 UNDER AS 18.70.310. THE MUNICIPALITY MAY ESTABLISH A FEE

30 SCHEDULE DIFFERENT FROM THE SCHEDULE ESTABLISHED BY THE

31 DEPARTMENT OF PUBLIC SAFETY UNDER AS 18.70.310].

1 * Sec. 9. AS 29.35.530(a) is amended to read:

2 (a) The municipality [DEPARTMENT OF PUBLIC SAFETY, DIVISION OF
3 FIRE PREVENTION], at the request of a business or government agency required to
4 submit an inventory under AS 29.35.500 [OR OF A MUNICIPALITY], shall provide

5 (1) a descriptive summary of the hazardous chemicals, hazardous
6 materials, and hazardous wastes that are required to be included in an inventory; and

7 (2) inventory forms approved by the Alaska State Emergency
8 Response Commission.

9 * Sec. 10. AS 29.35.590(6) is repealed and reenacted to read:

10 (6) "hazardous chemical" has the meaning given in 29 C.F.R.
11 1910.1200(c) except that it does not include

12 (A) a food, food additive, color additive, drug, or cosmetic
13 regulated by the federal Food and Drug Administration;

14 (B) a substance present as a solid in a manufactured item to the
15 extent exposure to the substance does not occur under normal conditions of
16 use;

17 (C) a substance to the extent it is used for personal, family, or
18 household purposes, or is present in the same form and concentration as a
19 product packaged for distribution and use by the general public;

20 (D) a substance to the extent it is used in a research laboratory
21 or a hospital or other medical facility under the direct supervision of a
22 technically qualified individual; or

23 (E) a substance to the extent it is used in routine agricultural
24 operations or is a fertilizer held for sale by a retailer to the ultimate customer;

25 * Sec. 11. AS 29.35.590(7) is amended to read:

26 (7) "hazardous material" means a material or substance, as defined in
27 49 C.F.R. 171.8, and any other substance determined by the Alaska State Emergency
28 Response Commission in regulations [DIVISION OF FIRE PREVENTION, OR BY
29 A MUNICIPALITY FOR PURPOSES OF ITS OWN REPORTING PROGRAM,] to
30 pose a significant health and safety hazard; "hazardous material" does not include food,
31 drugs, alcoholic beverages, cosmetics, tobacco, or tobacco products intended for

1 personal consumption;

2 * Sec. 12. AS 29.35.590(8) is amended to read:

3 (8) "hazardous waste" means

4 (A) a hazardous waste as defined in AS 46.03.900;

5 (B) a hazardous waste as identified by the Environmental
6 Protection Agency under 40 C.F.R. 261; [,] and

7 (C) any other hazardous waste defined by the Alaska State
8 Emergency Response Commission in regulations [DIVISION OF FIRE
9 PREVENTION OR BY A MUNICIPALITY FOR PURPOSES OF ITS OWN
10 REPORTING PROGRAM];

11 * Sec. 13. AS 46.03.308(a) is amended to read:

12 (a) Hazardous waste may not be transported in the state unless the waste is
13 accompanied by the uniform hazardous waste [A] manifest required under 42
14 U.S.C. 6922 - 6923 or other applicable federal law [AND THE GENERATOR HAS
15 DELIVERED A COPY OF THE MANIFEST TO THE DEPARTMENT BEFORE

16 THE TRANSPORTATION BEGINS].

17 * Sec. 14. AS 46.03.822(a) is amended to read:

18 (a) Notwithstanding any other provision or rule of law and subject only to the
19 defenses set out in (b) of this section, the exception set out in (i) of this section, the
20 exception set out in AS 09.65.240, and the limitation on liability provided under
21 AS 46.03.825, the following persons are strictly liable, jointly and severally, for
22 damages, for the costs of response, containment, removal, or remedial action incurred
23 by the state, a municipality, or a village, and for the additional costs of a function or
24 service, including administrative expenses for the incremental costs of providing the
25 function or service, that are incurred by the state, a municipality, or a village, and the
26 costs of projects or activities that are delayed or lost because of the efforts of the state,
27 the municipality, or the village, resulting from an unpermitted release of a hazardous
28 substance or, with respect to response costs, the substantial threat of an unpermitted
29 release of a hazardous substance:

30 (1) the owner of, and the person having control over, the hazardous
31 substance at the time of the release or threatened release; this paragraph does not apply

1 to a consumer product in consumer use;

2 (2) the owner and the operator of a vessel or facility, from which there
3 is a release, or a threatened release that causes the incurrence of response costs, of a
4 hazardous substance;

5 (3) any person who at the time of disposal of any hazardous substance
6 owned or operated any facility or vessel at which the hazardous substances were
7 disposed of, from which there is a release, or a threatened release that causes the
8 incurrence of response costs, of a hazardous substance;

9 (4) any person who by contract, agreement, or otherwise arranged for
10 disposal or treatment, or arranged with a transporter for transport for disposal or
11 treatment, of hazardous substances owned or possessed by the person, other than
12 domestic sewage, or by any other party or entity, at any facility or vessel owned or
13 operated by another party or entity and containing hazardous substances, from which
14 there is a release, or a threatened release that causes the incurrence of response costs,
15 of a hazardous substance;

16 (5) any person who accepts or accepted any hazardous substances, other
17 than refined oil, for transport to disposal or treatment facilities, vessels or sites selected
18 by the person, from which there is a release, or a threatened release that causes the
19 incurrence of response costs, of a hazardous substance.

20 * Sec. 15. AS 18.70.310; AS 29.35.530(b), 29.35.590(2); and AS 46.03.308(b) are repealed.

21 * Sec. 16. APPLICABILITY. (a) Except as provided in (b) of this section, the provisions
22 of AS 09.65.240, enacted by sec. 1 of this Act, apply to claims for damages caused by a
23 release of a hazardous substance that are filed on or after the effective date of sec. 1 of this
24 Act.

25 (b) The provisions of AS 09.65.240, enacted by sec. 1 of this Act, do not apply to a
26 claim by a person damaged by a release of a hazardous substance that occurs before the
27 effective date of sec. 1 of this Act if the claim is filed not more than one year after the person
28 knew or should have known that the person was damaged by the release of a hazardous
29 substance.

30 * Sec. 17. The Alaska State Emergency Response Commission shall approve an inventory
31 form for use under AS 29.35.500 so that it is available for distribution to municipalities under

1 AS 29.35.530 by January 1, 1998.

0-LS0214F
Lauterbach
4/11/97

HOUSE CS FOR CS FOR SENATE BILL NO. 39()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS LEMAN, Kelly, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to hazardous chemicals, hazardous materials, and hazardous
2 waste."

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

4 * Section 1. AS 09.65 is amended by adding a new section to read:

5 Sec. 09.65.240. Liability of the state and regional educational attendance
6 areas for release of hazardous substances. (a) Notwithstanding AS 46.03.822(a),
7 neither the state nor a regional educational attendance area established under AS 14.08,
8 nor an agent or employee of the state or a regional educational attendance area acting
9 within the scope of that agency or employment, is subject to liability under
10 AS 46.03.822 for damages, as defined in AS 46.03.822(k) and 46.03.824, for the
11 release of a hazardous substance at or from any facility used in relation to a regional
12 educational attendance area school as described in AS 14.08.151 or at or from any
13 facility used in relation to a school operated by the state under AS 14.16.

14 (b) In this section,

1 (1) "facility" has the meaning given in AS 46.03.826;

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

3 * Sec. 2. AS 18.70.090 is amended to read:

4 Sec. 18.70.090. **Enforcement authority.** The Department of Public Safety and
5 the chief of each fire department recognized under regulations adopted by the
6 Department of Public Safety, and their authorized representatives in their respective
7 areas, may enforce the regulations adopted by the Department of Public Safety for the
8 prevention of fire or for the protection of life and property against fire or panic. All
9 state peace officers may assist the Department of Public Safety in the enforcement of
10 AS 18.70.010 - 18.70.100 [, 18.70.310,] and the regulations adopted under those
11 sections. The authority conferred in AS 18.70.010 - 18.70.100 [AND 18.70.310]
12 extends to the enforcement of the provisions of AS 11.46.400 - 11.46.430.

13 * Sec. 3. AS 18.70.100(a) is amended to read:

14 (a) A person who violates a provision of AS 18.70.010 - 18.70.100
15 [, 18.70.310,] or a regulation adopted under those sections, or who fails to comply with
16 an order issued under AS 18.70.010 - 18.70.100, [OR 18.70.310] is guilty of a class
17 B misdemeanor. When not otherwise specified, each 10 days that the violation or
18 noncompliance continues is a separate offense.

19 * Sec. 4. AS 26.23.071(e) is amended to read:

20 (e) The commission shall

21 (1) serve as the state emergency response commission required under
22 42 U.S.C. 11001 - 11005;

23 (2) facilitate the preparation and implementation of all emergency plans
24 prepared by state agencies under other authorities; the statewide, interjurisdictional, and
25 local plans prepared under this chapter; and the state and regional plans prepared under
26 AS 46.04.200 - 46.04.210;

27 (3) review the plans described in (2) of this subsection according to the
28 criteria established in AS 26.23.077;

29 (4) designate, and revise as necessary, the boundaries of emergency
30 planning districts under AS 26.23.073;

31 (5) establish a local emergency planning committee under

1 AS 26.23.073(d) for each emergency planning district;

2 (6) supervise and coordinate the activities of local emergency planning
3 committees;

4 (7) establish procedures for receiving and processing requests from the
5 public for information under 42 U.S.C. 11044, including tier II information under
6 42 U.S.C. 11022; procedures established under this paragraph shall designate the
7 Department of Environmental Conservation as the state agency to receive and
8 process these requests on behalf of the commission;

9 (8) review reports about responses to disaster emergencies and make
10 recommendations to the appropriate parties involved in the response concerning
11 improved prevention and preparedness;

12 (9) perform other coordinating, advisory, or planning tasks related to
13 emergency planning and preparedness for all types of hazards, community right-to-
14 know reporting, toxic chemical release reporting, or management of hazardous
15 substances;

16 (10) recommend procedures to integrate, as appropriate, hazardous
17 substance response planning under 42 U.S.C. 11001 - 11005, federal contingency
18 planning under 33 U.S.C. 1321 and other federal laws applicable to hazardous
19 substance discharges, and state, regional, and local planning under this chapter and
20 AS 46.04.200 - 46.04.210;

21 (11) to the extent consistent with the constitution and law of the state,
22 perform all other functions prescribed for state emergency response commissions under
23 42 U.S.C. 11001 - 11005; and

24 (12) adopt regulations necessary to carry out the purposes of
25 AS 26.23.071 - 26.23.077 and 42 U.S.C. 11001 - 11005.

26 * Sec. 5. AS 29.35.500(a) is amended to read:

27 (a) If a municipality establishes a program for the reporting of hazardous
28 chemicals, hazardous materials, and hazardous wastes, then the municipality shall
29 require a business or a government agency that handles hazardous chemicals,
30 hazardous materials, or hazardous wastes to submit to a designated person or office of
31 the municipality, on a form approved by the Alaska State Emergency Response

1 Commission [DEPARTMENT OF PUBLIC SAFETY, DIVISION OF FIRE
2 PREVENTION], an inventory of the hazardous chemicals, hazardous materials, and
3 hazardous wastes the business or government agency handles. Notwithstanding other
4 provisions of this title, a municipality that establishes a program for the reporting
5 of hazardous chemicals, hazardous materials, and hazardous wastes may not

6 (1) use a form other than the one required under this section or use
7 a form in addition to the one required under this section;

8 (2) require a business or government agency to submit an inventory
9 of hazardous chemicals, hazardous materials, and hazardous wastes unless the
10 business or government agency is required to do so by the Alaska State
11 Emergency Response Commission;

12 (3) require reporting under this section of a substance not listed in
13 (c) of this section unless it is added by the commission under (c) of this section;

14 (4) require reporting under this section of a substance that is in
15 smaller quantities than provided under (c) of this section unless the reporting of
16 smaller quantities is approved by the commission under (c) of this section.

17 * Sec. 6. AS 29.35.500(c) is amended to read:

18 (c) Unless the Alaska State Emergency Response Commission or a
19 municipality, after public hearing, removes a substance listed in this subsection
20 from the reporting requirements within its jurisdiction, or unless the commission,
21 after public hearing, adds a substance to the reporting requirements of this
22 subsection or requires the reporting of smaller quantities of the substances listed
23 in this subsection, either on a statewide basis or for reporting within particular
24 municipalities, the [THE] following quantities of hazardous chemicals, hazardous
25 materials, and hazardous wastes shall be reported in an inventory required under this
26 section [, AND THE DIVISION OF FIRE PREVENTION OR A MUNICIPALITY
27 MAY REQUIRE THE REPORTING OF SMALLER QUANTITIES]:

28 (1) any quantity of a hazardous material of the hazard class identified
29 in federal placarding regulations as [OF]

30 (A) [POISON A;

31 (B)] Poison Gas Hazard Division No. 2.3 and Poisons 6.1 [B];

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- (B) Explosives 1.1 [(C) CLASS A EXPLOSIVE];
- (C) Explosives 1.2 and 1.3, excluding smokeless gunpowder, black powder, and ammunition [(D) CLASS B EXPLOSIVE];
- (D) [(E)] Flammable solid Divisions 4.1, 4.2, and 4.3 [(DANGEROUS WHEN WET)]; or
- (E) [(F)] Radioactive Hazard Class 7;
- (2) [A CONSUMER COMMODITY OF A HAZARDOUS MATERIAL IN A QUANTITY OF MORE THAN 1,000 POUNDS;
- (3)] a hazardous chemical, or a hazardous material other than one described in (1) of this subsection, if handled in a single day in an amount equal to or greater than 10,000 [500] pounds; and
- (3) [(4) ACUTE HAZARDOUS WASTE IN A QUANTITY OF 2.2 POUNDS OR MORE;
- (5) HAZARDOUS WASTE IN A QUANTITY OF 220 POUNDS OR MORE; AND
- (6)] extremely hazardous substances in a quantity equal to or more than 500 pounds or the threshold planning quantity, whichever is less [; AND
- (7) COMPRESSED GASSES EQUAL TO OR MORE THAN 200 CUBIC FEET AT STANDARD TEMPERATURE AND PRESSURE].

* Sec. 7. AS 29.35.510 is amended to read:

Sec. 29.35.510. Inspections; penalties. A municipality may conduct inspections, and establish and impose penalties, necessary to ensure compliance with reporting requirements adopted under AS 29.35.500 [AND PLACARDING REQUIREMENTS ADOPTED UNDER AS 18.70.310].

* Sec. 8. AS 29.35.520 is amended to read:

Sec. 29.35.520. Fees. A municipality may impose appropriate fees to fully or partially compensate for the cost of processing reports and administering inspections under AS 29.35.500 - 29.35.510 [AND THE COST OF PROVIDING PLACARDS UNDER AS 18.70.310. THE MUNICIPALITY MAY ESTABLISH A FEE SCHEDULE DIFFERENT FROM THE SCHEDULE ESTABLISHED BY THE DEPARTMENT OF PUBLIC SAFETY UNDER AS 18.70.310].

1 * Sec. 9. AS 29.35.530(a) is amended to read:

2 (a) The municipality [DEPARTMENT OF PUBLIC SAFETY, DIVISION OF
3 FIRE PREVENTION], at the request of a business or government agency required to
4 submit an inventory under AS 29.35.500 [OR OF A MUNICIPALITY], shall provide

5 (1) a descriptive summary of the hazardous chemicals, hazardous
6 materials, and hazardous wastes that are required to be included in an inventory; and

7 (2) inventory forms approved by the Alaska State Emergency
8 Response Commission.

9 * Sec. 10. AS 29.35.590(6) is repealed and reenacted to read:

10 (6) "hazardous chemical" has the meaning given in 29 C.F.R.
11 1910.1200(c) except that it does not include

12 (A) a food, food additive, color additive, drug, or cosmetic
13 regulated by the federal Food and Drug Administration;

14 (B) a substance present as a solid in a manufactured item to the
15 extent exposure to the substance does not occur under normal conditions of
16 use;

17 (C) a substance to the extent it is used for personal, family, or
18 household purposes, or is present in the same form and concentration as a
19 product packaged for distribution and use by the general public;

20 (D) a substance to the extent it is used in a research laboratory
21 or a hospital or other medical facility under the direct supervision of a
22 technically qualified individual; or

23 (E) a substance to the extent it is used in routine agricultural
24 operations or is a fertilizer held for sale by a retailer to the ultimate customer;

25 * Sec. 11. AS 29.35.590(7) is amended to read:

26 (7) "hazardous material" means a material or substance, as defined in
27 49 C.F.R. 171.8, and any other substance determined by the Alaska State Emergency
28 Response Commission in regulations [DIVISION OF FIRE PREVENTION, OR BY
29 A MUNICIPALITY FOR PURPOSES OF ITS OWN REPORTING PROGRAM,] to
30 pose a significant health and safety hazard; "hazardous material" does not include food,
31 drugs, alcoholic beverages, cosmetics, tobacco, or tobacco products intended for

1 personal consumption;

2 * Sec. 12. AS 29.35.590(8) is amended to read:

3 (8) "hazardous waste" means

4 (A) a hazardous waste as defined in AS 46.03.900;

5 (B) a hazardous waste as identified by the Environmental
6 Protection Agency under 40 C.F.R. 261; [,] and

7 (C) any other hazardous waste defined by the Alaska State
8 Emergency Response Commission in regulations [DIVISION OF FIRE
9 PREVENTION OR BY A MUNICIPALITY FOR PURPOSES OF ITS OWN
10 REPORTING PROGRAM];

11 * Sec. 13. AS 46.03.308(a) is amended to read:

12 (a) Hazardous waste may not be transported in the state unless the waste is
13 accompanied by the uniform hazardous waste [A] manifest required under 42
14 U.S.C. 6922 - 6923 or other applicable federal law [AND THE GENERATOR HAS
15 DELIVERED A COPY OF THE MANIFEST TO THE DEPARTMENT BEFORE
16 THE TRANSPORTATION BEGINS].

17 * Sec. 14. AS 46.03.822(a) is amended to read:

18 (a) Notwithstanding any other provision or rule of law and subject only to the
19 defenses set out in (b) of this section, the exception set out in (i) of this section, the
20 exception set out in AS 09.65.240, and the limitation on liability provided under
21 AS 46.03.825, the following persons are strictly liable, jointly and severally, for
22 damages, for the costs of response, containment, removal, or remedial action incurred
23 by the state, a municipality, or a village, and for the additional costs of a function or
24 service, including administrative expenses for the incremental costs of providing the
25 function or service, that are incurred by the state, a municipality, or a village, and the
26 costs of projects or activities that are delayed or lost because of the efforts of the state,
27 the municipality, or the village, resulting from an unpermitted release of a hazardous
28 substance or, with respect to response costs, the substantial threat of an unpermitted
29 release of a hazardous substance:

30 (1) the owner of, and the person having control over, the hazardous
31 substance at the time of the release or threatened release; this paragraph does not apply

1 to a consumer product in consumer use;

2 (2) the owner and the operator of a vessel or facility, from which there
3 is a release, or a threatened release that causes the incurrence of response costs, of a
4 hazardous substance;

5 (3) any person who at the time of disposal of any hazardous substance
6 owned or operated any facility or vessel at which the hazardous substances were
7 disposed of, from which there is a release, or a threatened release that causes the
8 incurrence of response costs, of a hazardous substance;

9 (4) any person who by contract, agreement, or otherwise arranged for
10 disposal or treatment, or arranged with a transporter for transport for disposal or
11 treatment, of hazardous substances owned or possessed by the person, other than
12 domestic sewage, or by any other party or entity, at any facility or vessel owned or
13 operated by another party or entity and containing hazardous substances, from which
14 there is a release, or a threatened release that causes the incurrence of response costs,
15 of a hazardous substance;

16 (5) any person who accepts or accepted any hazardous substances, other
17 than refined oil, for transport to disposal or treatment facilities, vessels or sites selected
18 by the person, from which there is a release, or a threatened release that causes the
19 incurrence of response costs, of a hazardous substance.

20 * Sec. 15. AS 18.70.310; AS 29.35.530(b), 29.35.590(2); and AS 46.03.308(b) are repealed.

21 * Sec. 16. APPLICABILITY. (a) Except as provided in (b) of this section, the provisions
22 of AS 09.65.240, enacted by sec. 1 of this Act, apply to claims for damages caused by a
23 release of a hazardous substance that are filed on or after the effective date of sec. 1 of this
24 Act.

25 (b) The provisions of AS 09.65.240, enacted by sec. 1 of this Act, do not apply to a
26 claim by a person damaged by a release of a hazardous substance that occurs before the
27 effective date of sec. 1 of this Act if the claim is filed not more than one year after the person
28 knew or should have known that the person was damaged by the release of a hazardous
29 substance.

30 * Sec. 17. The Alaska State Emergency Response Commission shall approve an inventory
31 form for use under AS 29.35.500 so that it is available for distribution to municipalities under

1 AS 29.35.530 by January 1, 1998.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 39 (HE3)

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>"An Act relating to hazardous chemicals, hazardous materials, and hazardous waste."</u>	BRU: <u>Civil Division</u>
Sponsor: <u>Senator Leman</u>	Component: <u>Environmental Law</u>
Requester: <u>House Judiciary Committee</u>	COMPONENT SERIAL NO. <u>2092</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by:	Joan M. Kasson <i>Joan M. Kasson</i>	Phone: <u>465-5370</u>
Division:	Administrative Services Division	Date: <u>4/25/97</u>
Approved by Commissioner:	Bruce M. Botelho, Attorney General <i>Bruce Botelho</i>	Date: <u>4/25/97</u>
Agency:	Department of Law	

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FISCAL NOTE

No. 5

Bill Version: LSSB39 (Jud)

(S) Publish Date: 2/17/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO.

Revision Date: 14-Feb-97
Title: An act relating to hazardous chemicals, hazardous materials, and hazardous waste
Sponsor: Senator Leman
Requestor: Senate Judiciary

Department Affected: Environmental Conservation
BRU: Spill Prevention and Response
Component: Prevention and Emergency Response

COMPONENT SERIAL NO. 2064

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other (Response Fund)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

This legislation will have no impact on the Department of Environmental Conservation

Prepared by: Kurt Fredriksson
Division: Spill Prevention and Response

Phone: 465-5250
Date: 2/14/97

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

Date: 2/14/97

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FISCAL NOTE

No. 3

STATE OF ALASKA
1997 LEGISLATIVE SESSION

E Bill Version: SB 39

(S) Publish Date: 2-6-97

Revision Date: _____ Dept. Affected: EDUCATION
 Title: An Act relating to hazardous chemicals, BRU: Educational Facilities Support
hazardous materials, and hazardous waste. Component: School Finance
 Sponsor: Sen. Leman
 Requester: (S)JUD COMPONENT SERIAL NO. 1957

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
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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CHANGES IN REVENUES						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY97) cost: \$

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Mike Morgan, Special Projects Manager *mm*
 Division: School Facilities

Phone: 465-1858
 Date: 2/3/97

Approved by Commissioner: Shirley J. Holloway, Ph.D. *Shirley Holloway*
 Agency: Department of Education

Date: 2/3/97

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FISCAL NOTE

No. 2

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: SB 39

(S) Publish Date: 2-6-97

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to hazardous chemicals, BRU: Civil Division
hazardous materials, and hazardous waste." Component: General Legal Services
 Sponsor: Senator Leman
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson*
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho *Bruce M. Botelho for*
 Agency: Department of Law

Phone: 465-5370
 Date: 2/3/97
 Date: 2/3/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 1
BILL NO: Bill Version: SB 39
 (S) Publish Date: 2-6-97

Revision Date: _____ Dept. Affected: Public Safety
 Title: Reporting of Hazardous Substances BRU: Fire Prevention
 Component: Fire Prevention Operations
 Sponsor: Senator Leman
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 0494

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	(1.1)	(1.1)	(1.1)	(1.1)	(1.1)	(1.1)
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program Receipts						
1006 GE/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ _____

POSITIONS:

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

ANALYSIS (Attach a separate page if necessary.)

The average fees collected by the placarding program over the last 3 fiscal years was \$1500.00. The average cost of materials to conduct the program was \$400.00.

No economic impact on industry is anticipated in as much as the program is simply being transferred to others and changed to follow federal law.

Prepared By: Chester E Weger Phone: 907-269-5905
 Division: Fire Prevention Date: 1/21/97
 Approved by Commissioner: *Ronald L. Otte* Date: 1/31/97
 Agency: Ronald L. Otte, Dept. of Public Safety

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Municipality of Anchorage



FIRE DEPARTMENT
Administration
(1301 East 80th Avenue)

P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 267-4900

Rick Mystrom, Mayor

April 22, 1997

Representative Joe Green
716 W 4th Avenue
Anchorage AK 99501
FAX: 465-4316

RE: Senate Bill 39: Reporting of Hazardous Substances

Dear Representative Green:

The Anchorage Fire Department can support most of the changes. However, I am very concerned with the deletion of the requirement for reporting compressed gases in Section 6. AS 29.35.500(c)(7). Compressed gases, because of their very nature, present a major hazard to firefighters when exposed to a fire. Often the hazardous nature of a gas is not determined until late in an incident because of the masking effects of smoke. Prior knowledge through proper reporting is the only reasonable approach to this problem.

It is my firm belief that these amendments will make the entire process more "user friendly" for the industry while still providing a reasonable degree of safety for the responders, workers and public. I encourage you to hear the bill quickly and move it on through the process.

If I can provide any further assistance please call (907) 267-4934, Fax (07) 267-4920.

Sincerely,

Mike Nolan
Mike Nolan
Fire Chief

SB 39
Marilyn Hymen
Gov's office wants pleading

Please
Deliver
before 1:00
Session

UNOCAL

Agricultural Products—Kenai Plant
Safety & Environmental Department
P.O. Box 575

Mi. 21.5 Spur Hwy.
Kenai, Alaska 99611
Phone: (907) 776-8121
Fax: (907) 776-3213

TO:

Joe Green for distribution to

COMPANY:

House Judiciary Committee Members

FAX NUMBER:

465-4316

CC:

PAGES:

(including cover pg.)

4

FROM:

Denise Newbould

DATE:

5/1/97

TIME:

10:40 am

Comments:

Rep. Green and Committee Members:

S.B. 39 is an issue in which Unocal has strong interest. I waited 2 hours at the L.I.O. in Kenai yesterday in order to present this testimony. My schedule does not allow me to participate in today's teleconference.

I hope you will read and consider these comments. I am sorry I won't be available today, but I can be reached at 776-3150 if you have any questions on my written testimony.

Thank-you,

Denise Newbould

Envir. Supervisor
Unocal-Kenai Plant

S.B. 39 Testimony

5/1/97

Unocal advocates a system which provides chemical information to emergency responders necessary to minimize risk when responding to fires or other emergencies. We believe that this goal can be accomplished most efficiently by streamlining and consolidating existing federal, state, and local hazardous chemical reporting requirements. For these reasons, Unocal strongly supports S.B. 39. This bill is the result of years of effort to transform conflicting and often redundant toxic chemical reporting requirements into a tool that would achieve the goal of minimizing risk to emergency responders by providing them with information about chemical hazards at a facility, while minimizing the burden to business and industry and eliminating information which is not useful to emergency responders.

In 1992, in its evaluation of Alaska Hazardous Substance Program laws and programs, the Citizens' Oversight Council on Oil and Other Hazardous Substances recognized that there were inconsistencies between federal, state, and local reporting requirements. It recommended that, *"the SERC and the Department of Public Safety analyze their separate and independent requirements for reporting hazardous substance inventories and determine whether these programs can be combined."* S.B. 39 fulfills that recommendation, by streamlining federal, state, and local reporting requirements into one report form with consistent criteria. This bill has taken several years to be developed, with substantial input from numerous representatives of industry, fire departments, and pertinent state government agencies.

In defining a uniform program for all federal, state, and local requirements, S.B. 39 excludes placarding, which had been instituted in some municipalities. Exclusion of placarding requirements in S.B. 39 is not an oversight, but a deliberate decision which was agreed upon by all the stakeholders who participated in its development. Placarding is an idea that sounds good on paper, but in reality just doesn't work.

S.B. 39 Testimony
May 1, 1997

The intent of placarding programs is to provide information to local fire departments when they are responding to a fire. However, local fire departments already have the tools that they need to obtain chemical information when responding to a fire at facilities within their response area. These tools are Pre-fire Planning Programs and the chemical reporting requirements of SARA Title III (Emergency Planning and Community Right-to-Know Act). No additional programs are needed.

Even if there were a need for a mechanism to alert emergency responders of the presence of hazardous chemicals, we must evaluate whether or not the placarding program effectively fulfills that need. In fact, it does not. For example, a facility the size of Unocal is required to place literally dozens of placards on nearly every building and vessel in our 150-acre complex. Attempting to use placards to identify hazards during an emergency would result in confusion and possibly indecision. Instead, it is important to determine this information ahead of time and be prepared before an incident occurs. That is precisely what the fire pre-planning program does.

A placarding program can be very expensive to administer, and costly and difficult for the regulated community to maintain. To achieve uniformity, such a program would need to be run at the State level. The administration, inspection and enforcement programs alone would create a huge bureaucracy within State government, which couldn't be met without a substantial increase in staff, at a time when state agencies are being asked to control their budgets. The financial burden also extends to the regulated community, in the form of fee assessments. In addition, the placarding program creates administrative burdens. For large facilities, tracking changes and continually updating placards can be very time-consuming. For small businesses with limited manpower, this requirement can be even more burdensome.

S.B. 39 Testimony
May 1, 1997

In closing, Unocal thanks you for this opportunity to provide testimony on this important bill. It is a product of consensus with all the stakeholders, and we urge the Committee to accept the bill as written.



Official Business

COMMITTEE:

HOUSE JUDICIARY

DATE: April 30, 1997 - Wednesday

SIGN-IN

Subject of meeting:

SB 39 - Hazardous Chemicals, Materials and Waste

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

NAME	ADDRESS (MAILING) & (ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
Bob Lipchak	5250 THANE RD JUNEAU AK	586-8177	SELF	YES NO
JERRY GENTILE	Box 111200 Juneau	4332	DPS/FP	No
MARIE Sansone	860 Diamond Ct House, 6 th Flr	-6726	Law	ans. questions
Pam LeBalle	217 2 nd St #201 Juneau	586-2323	State Chamber	Yes
LARRY DIETRICK	410 WILLOUGHBY, Juneau	465-5232	AK. DEPT ENVIRONMENTAL CONSERVATION	ANS QUESTIONS

8B 39

Σ Sandy PP
Σ Yes

Larry Detrick
Proj Mgr

PKT
DEC

Kurt Richardson

465-5255

~~Perth~~ Feb 24

8B 39

~~263-2076~~



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

SPONSOR STATEMENT SB 39

"An Act relating to hazardous chemicals, hazardous materials, and hazardous waste."

As we downsize government, and make it more user friendly, we must assess the efficacy of current statutes and regulations. SB 39 consolidates reporting requirements and includes a section that protects the state from strict liability for oil spills or other environmental releases at the REAA schools. It is part of the state's response to the Toksook Bay lawsuit.

Many times state and federal governments ask businesses to report information without a lot of thought about how that information will be used when it is received. That is the case with the "Placarding Statute" under AS 18.70.310.

We need to stop asking business to provide unnecessary information and concentrate on what it is the state needs to know. If communities, businesses and the state are not benefiting from the reporting, the information may not be necessary.

Currently, businesses in Alaska must report virtually the same information about hazardous chemicals, materials and wastes, in up to four different formats to four different entities. This bill eliminates three formats and one entity.

The bill was crafted with input from industry, fire departments, and the departments of Environmental Conservation, Law and Public Safety, Division of Fire Prevention.

The information to be reported is streamlined to one form which satisfies federal, state and local reporting requirements.

Post-it [®] Fax Note	7671	Date	4/26	# of pages	14
To	KURT FREDRIKSSON	From	LISA KIRSCH		
Co./Dept.	DEC	Co.	H. JUDICIARY		
Phone #	465 5250	Phone #	465 4990		
Fax #	" 5262	Fax #	" 4316		

FACT SHEET FOR SB 39 Hazardous Substances Reporting

In addition to the Toksook Bay Lawsuit response, which protects the state from strict liability for oil spills or other environmental releases at the REAA schools, SB 39 consolidates reporting requirements.

SB 39 eliminates reporting provisions that are stricter than federal law.

Businesses are now required to report under:

- Title 29 Local Municipal placarding reporting requirements (currently only Municipality of Anchorage)
- State Fire Marshal placarding reporting requirements (Title 18)
- Emergency Planning and Community Right to Know reporting requirements (EPCRA)
- OSHA Hazard Communications Standard (MSDS sheets)
- Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)

What SB 39 does:

a) deletes the fire marshal's ineffective placarding program (Division of Fire Prevention supports; division doesn't have the personnel to do this program.) Deleting the program deletes the requirement for business to report to State Fire Marshal.

b) modifies substances and amounts currently required to be reported to municipalities to be the same as those required under EPCRA and CERCLA. Leaves door open to municipalities with their own placarding program to add substances to be reported if the municipality feels it is a public safety issue. This is done through a public process. Also the State Emergency Response Commission may add substances, but only after notifying facilities (this is current federal law).

c) creates one form sent out by DEC to cover:

- 1) Municipal placarding reporting requirements
- 2) EPCRA/CERCLA reporting requirements to:
 - local fire departments
 - local emergency planning committees (LEPCs)
 - DEC for the SERC

NOTE: DEC currently sends out Tier II form for the EPCRA/CERCLA reporting.

d) Businesses could do electronic filing with this one form. Those needing the information, usually fire departments and LEPCs, (all of this info is public whether on paper format or electronic) could download the info into their computers. Most fire departments and LEPCs received from the state computers and plume modeling software several years ago.

SECTIONAL ANALYSIS
Version 0-LS0214\F Work Draft
SB 39: Reporting of Hazardous Substances

Section 1:

This section adds an immunity to Title 9 protecting the state from strict liability for oil spills or other environmental releases at the REAA schools. Without this change, the state and school districts can each be liable for 100% of damages claimed from environmental problems on school sites, even if they are not at fault in any way or bear only a small portion of the fault. This section was added at the request of DEC, DOE, and the Department of Law and approved by the sponsor as part of the state's response to the Toksook Bay lawsuit.

Section 2:

Deletes reference to AS 18.70.310 - the placarding program within the state fire marshal's office.

Section 3:

Deletes reference to AS 18.70.310 - the placarding program within the state fire marshal's office.

Section 4:

Amends duties of the State Emergency Response Commission to include designating the Department of Environmental Conservation as the agency to accept the Tier II reports on behalf of the Commission as the department has been doing since the SERC was established.

Section 5:

Subsection (a) makes the State Emergency Response Commission (SERC) the agency to approve a form to be used for the reporting of placarding information under a municipal placarding program. This ensures that if the form needs to be changed, this commission can coordinate with all agencies that receive such reports. This section ensures that the municipality uses the Tier II form, and ensures that changes to that form go through the State Emergency Response Commission.

Section 6:

Subsection (c) refers to the existing MUNICIPAL placarding program (Title 29). Currently under state or federal law, either a municipality or the SERC may add substances to those already required to be reported. This section ensures a public process for adding substances required to be reported. (Under federal law, municipalities may add substances by petitioning the SERC, ensures coordination of reporting and one form. The SERC may add facilities required to report. That decision would be made based on the substances in those facilities.)

Subsection (c)(1) standardizes the substances and their threshold amounts to be reported under a municipal placarding program, and to fire departments and Local Emergency Planning Committees under Emergency Planning and Community Right-to-Know requirements. The "hazard classes" conform to the new classification system passed by Congress in 1993 recognizing the UN Identification system that enables the same classification to be used for national and international shipments of hazardous materials.

Subsection (c)(2) deletes from the municipal placarding program the requirement that businesses report consumer commodities of hazardous materials. These businesses are readily identified by fire departments in Alaska as handling large quantities of consumer commodities. Deleted also is requirement to report compressed gases, which exceeds federal reporting requirements.

Acute hazardous waste and hazardous waste have been deleted at the request of fire departments, who have contended that this information is not useful since it is normally waste oil or a composite of waste barrels. They would prefer to rely on site visits and pre-fire planning to assess these wastes. The reporting is more cumbersome than the benefit to the departments and the information is available from the EPA.

Section 7:

Deletes reference to the state fire marshal's placarding program under AS 18.70.310.

Section 8:

Deletes reference to the Municipality having to obtain placards from the state fire marshal's office. Retains ability for the Municipality to charge fees to compensate for the costs of a Municipal placarding program.

Section 9:

Makes the municipality the agency to provide lists of reportable substances under the Title 29 placarding, and the federal/state Emergency Planning and Community Right-to-Know laws. The single form approved by the SERC is to be used for these reporting purposes.

Section 10:

Subsection (6) makes the Municipal placarding (Title 29) definition of hazardous chemical the same as the definition of hazardous chemical under the Emergency Planning and Community Right-to-Know Act, with the same exceptions as under federal law.

Section 11:

Subsection (7) allows the State Emergency Response Commission to add hazardous materials to the Emergency Planning reporting requirements. Removes the exceptions which are not mentioned in federal law, but which are probably covered by the reference in federal law to "substances capable of posing an unreasonable risk".

Section 12:

Subsection (8) adds in the DEC definition of hazardous waste and allows the SERC to define additional hazardous wastes to be reported under Emergency Planning and Community Right-to-Know requirements. This is to ensure continuity in definitions and reporting thresholds.

Section 13:

Since the state does not have primacy with regard to the Resources Conservation and Recovery Act, the requirement that a transporter of hazardous waste wait over the weekend to mail a copy of a manifest to the DEC is unnecessary. The transporter is still required to meet federal law which requires the manifest accompany the shipment.

Section 14:

Applies strict statutory liability and liability for damages to the amendment in Section 1.

Section 15:

Deletes the fire marshal's placarding program (AS 18.70.310).
Deletes responsibilities of the fire marshal under the Municipal placarding program (AS 29.35.530(b)).
Deletes definition of consumer commodity from definitions section of Municipal placarding program (AS 29.35.590(2)).

Section 16:

The amendment in Section 1 applies only to future claims, not past claims.

Section 17:

Deadline for inventory form to be approved by the SERC.

FACSIMILE TRANSMITTAL



ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Spill Prevention and Response

410 Willoughby Avenue, Suite 105

Juneau, AK 99801-1795

PHONE: (907)465-5250

FAX: (907)465-5262

TO: Lisa Kirsch

FAX NO.: 465-4316

FROM: Kurt Fredriksson

NUMBER OF PAGES (INCL. COVER SHEET): 2

COMMENTS: _____

TONY KNOWLES, GOVERNOR

**DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF SPILL PREVENTION AND RESPONSE**410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795

Telephone No. (907)465-5250

FAX No. (907)465-5262

February 24, 1997

The Honorable Senator Loren Leman
State Capitol, Room 113
Juneau, AK 99801-1182

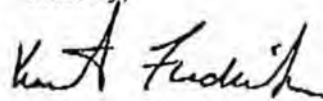
Dear Senator Leman:

The Department of Environmental Conservation (DEC) supports CSSB 39 (JUD). The revised bill will help standardize local hazardous substance forms by requiring the State Emergency Response Commission (SERC) to approve them while retaining local control over implementation of municipal reporting programs. The Department believes these changes eliminate unnecessary State involvement in local hazardous substance inventory reporting programs.

The Department is not currently involved in any aspect of local hazardous substance reporting programs authorized under current statutes (Title 29). The original version of SB 39 would have required DEC to distribute the SERC-approved, local reporting forms and a descriptive summary of substances subject to local hazardous substance reporting requirements. We appreciate the fact that this was changed in the committee substitute. Since the municipality is establishing the reporting program, we feel the municipality, not DEC, is the appropriate entity to be responsible for providing the descriptive summary of the chemicals, materials, and wastes to be reported. If we were involved, it would likely be seen as unnecessary bureaucratic interference.

Thank you again for considering and adopting the Department of Law's recommended amendments for Senate Bill 39.

Sincerely,

Kurt Fredriksson
Director

KF/mh G:\SPAR\K\FLEMAN\SB3.WPD

cc: The Honorable Joe Green, Chairman
House Judiciary Committee

SB 39, SECTIONS 1 AND 14
Limitation of Strict Liability at REAA School Sites

Overview: The amendment adds an immunity to Title 9 protecting the state and Rural Education Attendance Areas (REAA) from strict liability for oil spills or other environmental releases at the REAA schools. Without this change, the state and school districts can each be liable for 100% of damages claimed from environmental problems on the school sites, even if they are not at fault in any way or bear only a small portion of the fault.

Narrow scope:

- Limited to special circumstance where state inherited problems from BIA and, unlike a private business, has no choice but to continue operating the facilities pending fix-up over a period of years.
- Only applies to REAA schools and Mt Edgecumbe, another school passed from BIA to the state.
- Only applies to liability for damages. State and REAAs will remain strictly and jointly liable for cleanup, even if they are not at fault.
- Only applies to strict statutory liability. Common law liability for negligence and nuisance will be unaffected, so that the state and REAAs may still be liable for damages if they are at fault, up to the percentage of their fault.

Background: The legislation, approved by DEC and DOE, is part of the administration's response to the state's exposure to major liability as revealed in the Toksook Bay lawsuit. Other responses have included promulgation of regulations clarifying state and REAA roles at the schools to allow for a cooperative approach to maintenance and to controlling liability, and a meeting of state land managers to provide training on avoiding environmental liability.

The Toksook Bay lawsuit was brought by 500 plaintiffs in the wake of a fuel spill at an REAA school in 1990. The state had received the school from the BIA the previous year, subject to an "as is" clause. The spill occurred when a corroding pipe that the BIA had placed in a sealed, inaccessible area, finally gave way. In addition to cleanup work by the state and the school district, the litigation was settled for a consent judgment of \$1.285 million against the state, together with a series of cash payments by the REAA from its own resources totaling \$2.226 million.

DOL 2/19/97

Distributed by Senator Loren Leman



[SB 39]

DEC

Fed law reqs.
Tier 2 report

toxic

DEC - Report supposed to
go to State Emergency Resp Comm
7 pub members
& agencies

Since 1987 DEC accepts

Amendment makes this
duty explicit

DEC Lists contaminated sites
so they rely on this info.

pre fire planning surveys

ARCO Alaska, Inc.
Post Office Box 100360
Anchorage Alaska 99510-0360
Telephone 907 263 4576
Facsimile 907 265 6216



Joseph H. Hegna
Manager
Environment, Health, and Safety

April 15, 1997

Representative Joe Green
Chairman, House Judiciary Committee
State Capitol
Room 118
Juneau, AK 99801-1182

Dear Representative Green,

As Manager of Environment, Health and Safety for ARCO Alaska, Inc., I am writing in support of Senate Bill 39, relating to the reporting procedures for hazardous chemicals, materials, and waste. In our view, SB 39 will help streamline these procedures.

First introduced during the 19th Legislature, SB 39 was reintroduced this year. The bill passed the Senate on February 20th and is currently in the House Judiciary Committee.

ARCO Alaska also supports the following three amendments:

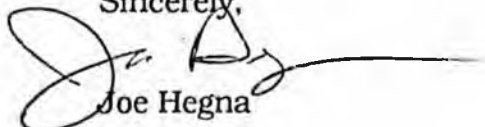
The first amendment would require Tier 2 chemical reports to be received by ADEC instead of the Alaska State Emergency Response Commission. This would allow all reports to go to one central location, in one format and to an agency with the resources to support the program.

The second amendment would direct municipalities which require chemical inventories to use the same reporting quantities as the state uses. This change would create a uniform statewide reporting requirement and reporting form as related to chemical quantities.

The third amendment, dealing with hazardous waste transport notification, changes a statute which is more stringent in Alaska than federal EPA requirements. Alaska statute requires transporters of hazardous waste to notify ADEC prior to moving the waste, which could mean evening and/or week-end delays. This amendment would allow transporters to follow EPA regulations which would require traveling with a hazardous waste manifest in the vehicle, but would not require ADEC notification prior to movement of the material.

I understand that SB 39 will come before the House Judiciary Committee soon. I would like to urge your favorable consideration of this bill with the above three described amendments.

Sincerely,



Joe Hegna

SIB 39

LSO214\F working

retain - deletion of
See to 29.35.500

"report compressed gas
200ft @ ST Pressure
→ removed

> 200 Cu Feet @ std temp & press

Anchorage - will have signs
but these tanks are not big
enough to get signs under
local code

demands - Sen Taylor

April 30th - Mandatory

Tom Wells may be able to testify

Dolan, Jim @ ci, Anchorage, AK, US

Lisa - Kinosh @ legis. State, AK, US

Lauterbach is drafter

**MUNICIPALITY OF ANCHORAGE
Anchorage Fire Department
FAX TRANSMITTAL**



To: Rep Joe Green, Chairman

**From: Ginette Whitehead
Anchorage Fire Dept.**

**Tel: (907)267-4936
Fax: (907)267-4920**

Fax : 465-4316

Number of Pages: 2
(includes cover page)

cc:Mail for: Lisa Kirsch

Subject: Re: SB 39

From: nolanjm@ci.anchorage.ak.us (Mike Nolan) at CC2MHS1 4/24/97 2:51 PM

To: Lisa Kirsch at LAA_TRANS

Lisa,

We recognized that within the Anchorage Fire Service Area I could still enforce the reporting of the compressed gases. The problem is that not all of the Municipality of Anchorage is covered by the Anchorage Fire Service Area. Eagle River, Chugiak and Girdwood are covered by the State Fire Marshall's Office, even though we do the emergency responses in the areas.

Mike Nolan
Fire Chief

LEGISLATIVE REFERENCE LIBRARY

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3808
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 400
Juneau, Alaska 99801-2105

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

Senate Judiciary Committee, 2/3/97, 2:10 p.m.

11 11, 2/5/97, 1:38 p.m.