



# LAWS OF ALASKA

1978

**Source**

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**Chapter No.**

128

## AN ACT

Relating to the exemption of small oil discharges from the penalty provisions of AS 46.03.758; and providing for an effective date.

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

\* Section 1. AS 46.03.758(a)(3) is amended to read:

(3) the handling of oil in large quantities is a hazardous undertaking which poses a significant threat to the economy and environment of the state, which can be substantially reduced only by the taking of rigorous safety precautions involving considerable expense; conversely, persons handling oil in smaller amounts pose a correspondingly lower risk to the economy and environment of the state, and are capable of safe oil handling practices at correspondingly lower costs; in order to provide an incentive which is effective, but not punitive, it is necessary and appropriate that the assessment of civil penalties for discharges of small quantities of oil be left for case-by-case judicial determination, while insuring, through the penalty provisions of this section, that the handling of oil in large quantities occurs in a manner which will not impair the renewable resources of the state.

\* Sec. 2. AS 46.03.758(e) is amended to read:

(e) Upon the effective date of regulations adopted under (b) of this section, if a discharge of oil in excess of 18,000 gallons not permitted under applicable state and federal law occurs within the territorial jurisdiction of the state, or into or upon the adjacent outer continental shelf of the state, the following persons, in addition to the person causing or permitting the discharge, are jointly and severally liable to the state, in a civil action, for the full amount of penalties established in the regulations, or \$100,000,000, whichever is less,

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(1) if the discharge occurs from any commercial or industrial facility other than a vessel or offshore platform, the owner, lessee (or permittee), and operator of the facility;

(2) if the discharge occurs from a vessel,

(A) the owner and operator of the vessel;  
and

(B) the owner of the oil carried as cargo on the vessel at the time the vessel was loaded, if the loading occurred within the territorial jurisdiction of the state, or at a deepwater port or other offshore storage facility adjacent to the state; however, if the owner of the oil temporarily transfers ownership of the oil to another person, and the transfer has the purpose or effect of evading the vicarious liability imposed by this section, the transferor will be considered the owner of the oil for the purposes of this subsection; and

(3) if the discharge occurs from an offshore platform, the lessee (or permittee) of the tract or acreage upon which the platform is situated, and the operator of the platform.

\* Sec. 3. AS 46.03.758(i) is amended to read:

(i) Notwithstanding sec. 875 of this chapter, a person liable under this section is not also liable for the discharge of oil under sec. 760(a) of this chapter. A person causing or permitting a discharge of oil of 18,000 gallons or less not permitted under applicable state or federal law is liable for that discharge under the penalty provisions of sec. 760(a) of this chapter; however, the court may impose a penalty of less than \$500 for the discharge.

\* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.070(c).