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Source

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Chapter No.

108

AN ACT

Establishing requirements for warning placards; establishing requirements and limiting liability for municipal reporting programs for hazardous materials and hazardous waste; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 12

Approved by the Governor: June 7, 1986
Actual Effective Date: January 1, 1987

AN ACT

Establishing requirements for warning placards;
establishing requirements and limiting liability
for municipal reporting programs for hazardous
materials and hazardous waste; and providing for
an effective date.

* Section 1. LEGISLATIVE INTENT. It is the intent of the legislature,
in adopting this Act, to

(1) ensure the safety of emergency response personnel who re-
spond to fires and other emergencies involving hazardous materials and
hazardous wastes, and to effectively contain these emergencies;

(2) permit the development of a chemical profile of municipal-
ities in order to enable local elected officials and municipal agencies to
initiate actions necessary to prevent damage to the public health and to
property;

(3) protect the health and safety of residents of and visitors
to Alaska; and

(4) inform the public of the existence, location, and dangers of
hazardous materials and hazardous wastes.

* Sec. 2. AS 18.70 is amended by adding a new section to read:

Sec. 18.70.310. HAZARDOUS MATERIALS AND WASTES PLACARDS. (a) A
business or government agency that handles hazardous materials or
hazardous wastes shall post placards, provided by the Department of
Public Safety, division of fire prevention, in accordance with

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1 regulations adopted by the department under this section.

2 (b) The Department of Public Safety, division of fire preven-
3 tion, shall adopt the United States Department of Transportation
4 warning placards for hazardous materials and hazardous wastes. A
5 municipality that establishes a program for the reporting of hazardous
6 materials and hazardous wastes may, with the approval of the Depart-
7 ment of Public Safety, division of fire prevention, adopt and use an
8 alternative design for warning placards.

9 (c) The Department of Public Safety shall adopt regulations for
10 the posting of placards that will give adequate warning to the public
11 and to emergency response personnel of the type of hazardous materials
12 and hazardous wastes.

13 (d) The Department of Public Safety shall establish a fee sched-
14 ule to fully compensate for the costs of enforcement of, and placards
15 provided under, this section. Fees collected under this subsection
16 shall be deposited in the general fund. The commissioner of adminis-
17 tration shall account separately for fees collected and deposited
18 under this subsection. The annual estimated balance in the account
19 may be appropriated by the legislature to the Department of Public
20 Safety to carry out the purposes of this section.

21 (e) In this section, "handles," "hazardous material," and "haz-
22 arduous waste" have the meanings given in AS 29.35.590.

23 * Sec. 3. AS 29.10.200 is amended by adding a new paragraph to read:

24 (47) AS 29.35.500 - 29.35.590 (hazardous materials and
25 wastes).

26 * Sec. 4. AS 29.35 is amended by adding new sections to read:

27 ARTICLE 8. HAZARDOUS MATERIALS AND HAZARDOUS WASTES.

28 Sec. 29.35.500. REPORTING. (a) If a municipality establishes a
29 program for the reporting of hazardous materials and hazardous wastes,

1 then the municipality shall require a business or a government agency
2 that handles hazardous materials or hazardous wastes to submit to a
3 designated person or office of the municipality, on a form provided by
4 the Department of Public Safety, division of fire prevention, an
5 inventory of the hazardous materials and hazardous wastes the business
6 or government agency handles.

7 (b) An inventory required under this section shall include at
8 least the following information about each of the hazardous materials
9 and hazardous wastes that the business or government agency handles:

- 10 (1) hazard class;
- 11 (2) chemical name;
- 12 (3) proper shipping name;
- 13 (4) maximum estimated quantity;
- 14 (5) location;
- 15 (6) method of disposal;
- 16 (7) United Nations (UN) or North American (NA) number.

17 (c) The following quantities of hazardous materials and hazard-
18 ous wastes shall be reported in an inventory required under this
19 section, and the division of fire prevention or a municipality may
20 require the reporting of smaller quantities:

21 (1) any quantity of a hazardous material of the hazard
22 class of

- 23 (A) Poison A;
- 24 (B) Poison B;
- 25 (C) Class A explosive;
- 26 (D) Class B explosive;
- 27 (E) Flammable solid (dangerous when wet); or
- 28 (F) Radioactive;

29 (2) a consumer commodity in a quantity of more than 1,000

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1 pounds;

2 (3) other hazardous materials handled, stored, used, pro-
3 cessed, or disposed of at one time and place in an aggregate quantity
4 of more than

5 (A) 500 pounds of materials of a single hazard class;

6 or

7 (B) 1,000 pounds of materials of more than one hazard

8 class;

9 (4) acute hazardous waste in a quantity of 2.2 pounds or
10 more; and

11 (5) another hazardous waste in a quantity of 220 pounds or
12 more.

13 (d) A business or government agency required to submit an inven-
14 tory under this section shall submit the first inventory within 30
15 days after the municipality's reporting requirements take effect or
16 within 30 days after beginning to handle the hazardous materials or
17 hazardous wastes. Thereafter, the business or government agency shall
18 submit an inventory annually.

19 (e) A municipality that establishes a program for the reporting
20 of hazardous materials and hazardous wastes shall also require a
21 business or government agency that handles hazardous materials or
22 hazardous wastes to report

23 (1) significant change in the general location of hazardous
24 materials or hazardous wastes within 24 hours after moving the mater-
25 ials or wastes; and

26 (2) additions of hazardous materials or hazardous wastes
27 meeting criteria for reporting hazardous materials or hazardous wastes
28 under (c) of this section, on a monthly basis.

29 (f) A municipality that establishes a program for the reporting

1 of hazardous materials may require a business or government agency
2 that handles hazardous materials to submit a federal Occupational
3 Safety and Health Administration (OSHA) form 20 (Material Safety Data
4 Sheet) or equivalent information for each of the materials or wastes
5 handled.

6 (g) The requirements of this section may be imposed by a munic-
7 ipality on a business or government agency that handles hazardous
8 materials or hazardous wastes outside of the boundaries of the munic-
9 ipality if a fire or other emergency involving the materials or wastes
10 would be

11 (1) likely to adversely affect persons or property in the
12 municipality; or

13 (2) responded to by emergency response personnel whose
14 service area includes all or a part of the municipality.

15 Sec. 29.35.510. INSPECTIONS; PENALTIES. A municipality may
16 conduct inspections, and establish and impose penalties, necessary to
17 ensure compliance with reporting requirements adopted under AS 29.35.-
18 500 and placarding requirements adopted under AS 18.70.310.

19 Sec. 29.35.520. FEES. A municipality may impose appropriate
20 fees to fully or partially compensate for the cost of processing
21 reports and administering inspections under AS 29.35.500 - 29.35.510.

22 Sec. 29.35.530. DUTIES OF DIVISION OF FIRE PREVENTION. (a) The
23 Department of Public Safety, division of fire prevention, at the
24 request of a business or government agency required to submit an
25 inventory under AS 29.35.500 or of a municipality, shall provide

26 (1) a descriptive summary of the hazardous materials and
27 hazardous wastes that are required to be included in an inventory; and

28 (2) inventory forms.

29 (b) The division of fire prevention, at the request of a

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1 business or government agency required to submit an inventory under
2 AS 29.35.500 or of a municipality, shall provide a list of the hazard-
3 ous materials and hazardous wastes that are required to be included in
4 an inventory.

5 (c) The division of fire prevention, the Department of Environ-
6 mental Conservation, the Department of Health and Social Services, or
7 the Department of Labor may

8 (1) request copies of inventories submitted under AS 29.-
9 35.500; and

10 (2) provide educational materials related to hazardous
11 materials and hazardous wastes.

12 Sec. 29.35.540. PUBLIC ACCESS TO INFORMATION. Information
13 obtained by a municipality under AS 29.35.500, 29.35.510, and 29.35.-
14 530 shall be made readily available to the public for inspection and
15 copying.

16 Sec. 29.35.550. APPLICATION. AS 29.35.500 - 29.35.590 apply to
17 home rule and general law municipalities.

18 Sec. 29.35.560. MUNICIPAL LIABILITY. The establishment by a
19 municipality of a program for the reporting of hazardous materials and
20 hazardous wastes does not increase the liability that may otherwise be
21 imposed on the municipality for damages resulting from hazardous
22 materials or hazardous waste.

23 Sec. 29.35.590. DEFINITIONS. In AS 29.35.500 - 29.35.590

24 (1) "acute hazardous waste" means a waste listed by the
25 administrator of the Environmental Protection Agency in accordance
26 with the criteria in 40 C.F.R. 261.11(a)(2);

27 (2) "consumer commodity" means a material that is packaged
28 and distributed in a form intended or suitable for sale through retail
29 sales agencies or instrumentalities for consumption by individuals for

1 purposes of personal care or household use, including a drug or medi-
2 cine;

3 (3) "handles" includes disposes of, generates, processes,
4 stores, treats, and uses hazardous materials or wastes, but does not
5 include the handling of hazardous materials or hazardous wastes while
6 they are in transit and before they reach the final destination indi-
7 cated on the shipping paper accompanying the shipment; in this para-
8 graph, "shipping paper" has the meaning given in 49 C.F.R. 171.8;

9 (4) "hazard class" means the class of a hazardous material
10 defined in 49 C.F.R. 173;

11 (5) "hazardous material" means a material or substance, as
12 defined in 49 C.F.R. 171.8, and any other substance determined by the
13 division of fire prevention, or by a municipality for purposes of its
14 own reporting program, to pose a significant health and safety hazard;
15 "hazardous material" does not include food, drugs, alcoholic bever-
16 ages, cosmetics, tobacco, or tobacco products intended for personal
17 consumption;

18 (6) "hazardous waste" means a hazardous waste as identified
19 by the Environmental Protection Agency under 40 C.F.R. 261, and any
20 other hazardous waste defined by the division of fire prevention or by
21 a municipality for purposes of its own reporting program;

22 (7) "quantity" means the total amount of a material or
23 waste handled at a time and includes the aggregate of a material or
24 waste that is divided among multiple containers.

25 * Sec. 5. This Act takes effect January 1, 1987.