

SENATE BILL NO. 156

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 5/17/23

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to commercial passenger vessel environmental compliance; relating to
2 commercial passenger vessel fees; establishing the wastewater infrastructure grant fund;
3 repealing the authority for citizens' suits relating to commercial passenger vessel
4 environmental compliance; and providing for an effective date."

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

6 * **Section 1.** AS 46.03.460(a) is amended to read:

7 (a) **The department shall regulate** [THERE IS ESTABLISHED THE]
8 commercial passenger vessel **discharges and** environmental compliance **by**
9 [PROGRAM PROVIDING FOR]

10 (1) **adopting regulations to carry out the purposes of AS 46.03.460**
11 **- 46.03.490, including regulations that establish** terms and conditions of
12 **commercial passenger** vessel discharges;

13 (2) **verifying** [INDEPENDENT VERIFICATION OF] environmental
14 compliance; and

1 (3) **monitoring and supervising** [ALLOWING THE DEPARTMENT
2 TO MONITOR AND SUPERVISE DISCHARGES FROM] commercial passenger
3 vessels through a registration system.

4 * **Sec. 2.** AS 46.03.463 is repealed and reenacted to read:

5 **Sec. 46.03.463. Prohibited discharges.** (a) Except as provided in (b) of this
6 section, or under the terms of prior authorization from the department under
7 AS 46.03.100, a person may not discharge wastewater from a commercial passenger
8 vessel into the marine waters of the state.

9 (b) This section does not apply to discharges from a commercial passenger
10 vessel made to secure the safety of the commercial passenger vessel or to save life at
11 sea, if all reasonable precautions have been taken to prevent or minimize the
12 discharge.

13 * **Sec. 3.** AS 46.03.465(a) is amended to read:

14 (a) The owner or operator of a commercial passenger vessel shall maintain
15 daily records related to the period of operation while in the state, detailing the dates,
16 times, and locations, and the volumes and flow rates of any discharges of **wastewater**
17 [SEWAGE, GRAYWATER, OR OTHER WASTEWATERS] into the marine waters
18 of the state, and provide electronic copies of those records [ON A MONTHLY
19 BASIS] to the department **in a manner established by the department in regulation**
20 [NOT LATER THAN FIVE DAYS AFTER EACH CALENDAR MONTH OF
21 OPERATION IN STATE WATERS].

22 * **Sec. 4.** AS 46.03.465(b) is amended to read:

23 (b) While a commercial passenger vessel is present in the marine waters of the
24 state, the owner or operator of the vessel shall provide an hourly report of the vessel's
25 location based on Global Positioning System technology and, **if authorized to**
26 **discharge under AS 46.03.100, shall routinely** collect [ROUTINE] samples of
27 **wastewater** [THE VESSEL'S TREATED SEWAGE, GRAYWATER, AND OTHER
28 WASTEWATERS] being discharged into marine waters of the state with a sampling
29 technique approved by the department.

30 * **Sec. 5.** AS 46.03.465(c) is amended to read:

31 (c) While a commercial passenger vessel is present in the marine waters of the

1 state, **including while underway, the owner or operator of the vessel shall allow**
 2 the department, or an independent contractor retained by the department, **to board**
 3 **and**

4 **(1) inspect systems that collect, treat, or dispose of wastewater;**

5 **(2) [MAY] collect [ADDITIONAL] samples of wastewater [THE**
 6 **VESSEL'S TREATED SEWAGE, GRAYWATER, AND OTHER**
 7 **WASTEWATERS] being discharged into the marine waters of the state; and**

8 **(3) inspect systems that affect air emissions under AS 46.14.**

9 * **Sec. 6.** AS 46.03.465(d) is amended to read:

10 (d) The owner or operator of a **commercial passenger** vessel required to
 11 collect samples under (b) of this section shall ensure that all sampling techniques and
 12 frequency of sampling events are approved by the department in a manner sufficient to
 13 **determine** [ENSURE DEMONSTRATION OF] compliance with all discharge
 14 requirements under **AS 46.03.460 - 46.03.490** [AS 46.03.462].

15 * **Sec. 7.** AS 46.03.465(f) is amended to read:

16 (f) If the owner or operator of a commercial passenger vessel has, when
 17 complying with another state or federal law that requires [SUBSTANTIALLY
 18 EQUIVALENT] information gathering, gathered **information that is substantially**
 19 **equivalent to** the information required under (a), (b), or (d) of this section, the owner
 20 or operator shall be considered to be in compliance with that subsection so long as the
 21 information is [ALSO] provided to the department **in a manner established by the**
 22 **department in regulation.**

23 * **Sec. 8.** AS 46.03.465(h) is amended to read:

24 (h) **At the department's** [ON] request, the owner or operator of a commercial
 25 passenger vessel discharging wastewater [UNDER AS 46.03.462(b)] shall provide the
 26 department with information relating to wastewater treatment, pollution avoidance,
 27 and pollution reduction measures used on the vessel, including testing and evaluation
 28 procedures and economic and technical feasibility analyses.

29 * **Sec. 9.** AS 46.03.480(a) is amended to read:

30 (a) **Except as provided in (c) of this section, each commercial passenger**
 31 **vessel is subject to** [THERE IS IMPOSED] an environmental compliance fee **of \$5**

1 per berth, determined by the number of lower berths, for [ON] each voyage
 2 during which the [COMMERCIAL PASSENGER] vessel operates [OPERATING]
 3 in the marine waters of the state. The department shall

4 (1) establish procedures for collection of the fee;

5 (2) reduce the fee by \$1 per lower berth if the owner or operator of
 6 a vessel

7 (A) installs and operates an electronic monitoring system
 8 for wastewater discharges that has been approved by the department; and

9 (B) provides monitoring data to the department consistent
 10 with AS 46.03.465; and

11 (3) provide a rebate to the owner or operator of a commercial
 12 passenger vessel after the vessel's last voyage of the year, in an amount equivalent
 13 to the vessel's total number of unoccupied lower berths that year, if the owner or
 14 operator of the vessel, in a manner established by the department in regulation,

15 (A) requests a rebate; and

16 (B) provides information related to the number of
 17 unoccupied lower berths of the vessel for that year.

18 * **Sec. 10.** AS 46.03.480(b) is repealed and reenacted to read:

19 (b) Except as provided in (c) of this section and notwithstanding (a) of this
 20 section, for each voyage during which a small commercial passenger vessel operates
 21 in the marine waters of the state, the vessel is only subject to an environmental
 22 compliance fee of

23 (1) \$75 for a commercial passenger vessel with overnight
 24 accommodations for at least 50 but not more than 99 passengers for hire;

25 (2) \$175 for a commercial passenger vessel with overnight
 26 accommodations for at least 100 but not more than 249 passengers for hire.

27 * **Sec. 11.** AS 46.03.480(c) is repealed and reenacted to read:

28 (c) The commissioner of environmental conservation and the commissioner of
 29 transportation and public facilities shall jointly set a fee to be imposed on all
 30 commercial passenger vessels operated by the state in the marine waters of the state.

31 * **Sec. 12.** AS 46.03.482(c) is amended to read:

1 (c) The legislature may make appropriations from the fund to the department
2 [TO PAY] for

3 (1) the department's operational costs necessary to [PREPARE
4 REPORTS THAT ASSESS THE INFORMATION RECEIVED BY THE
5 DEPARTMENT FOR THE CRUISE SHIP SEASONS OF 2000, 2001, 2002, AND
6 2003 AND FOR THE DEPARTMENT'S OPERATIONAL COSTS NECESSARY
7 TO] carry out activities under AS 46.03.460 - 46.03.490 relating to commercial
8 passenger vessels; and

9 (2) the wastewater infrastructure grant fund administered by the
10 department under AS 46.03.483.

11 * **Sec. 13.** AS 46.03 is amended by adding a new section to read:

12 **Sec. 46.03.483. Wastewater infrastructure grant fund.** (a) The wastewater
13 infrastructure grant fund is established in the general fund and consists of

14 (1) money appropriated to the fund by the legislature;

15 (2) money appropriated to the fund in accordance with
16 AS 46.03.482(c); and

17 (3) earnings on the fund.

18 (b) Appropriations from the commercial passenger vessel environmental
19 compliance fund shall be deposited in a separate account within the wastewater
20 infrastructure grant fund. The department may establish other accounts within the
21 wastewater infrastructure grant fund as it considers appropriate.

22 (c) The department may expend money appropriated to the wastewater
23 infrastructure grant fund for wastewater infrastructure grants without further
24 appropriation. Money in the fund does not lapse and remains available for expenditure
25 in successive fiscal years.

26 (d) A municipality may submit an application for a wastewater infrastructure
27 grant to establish, upgrade, or improve a wastewater treatment system or facility in a
28 port community that serves commercial passenger vessels. The application must
29 include information demonstrating that

30 (1) the proposed project is a capital improvement project and not part
31 of a preventive maintenance program or regular custodial care program;

1 (2) the municipality

2 (A) intends to secure and maintain adequate property loss
3 insurance for the replacement cost of the proposed wastewater treatment
4 system or facility; or

5 (B) has secured and will maintain an adequate program of
6 property loss insurance for the replacement cost of the proposed wastewater
7 treatment system or facility; and

8 (3) the municipality has a preventive maintenance plan for the
9 proposed wastewater treatment system or facility and will adequately adhere to the
10 preventive maintenance plan after completion of the proposed project.

11 (e) Awards granted by the department from the separate commercial passenger
12 vessel environmental compliance account established under (b) of this section shall be
13 limited to the percentage of operations that the wastewater treatment system or facility
14 expends servicing commercial passenger vessels.

15 (f) The department may award a wastewater infrastructure grant during a
16 fiscal year for a proposed project eligible under this section based on a grant
17 application filed during the immediately preceding fiscal year before February 1.

18 (g) The department shall award grants to applicants for proposals to establish,
19 upgrade, or improve a wastewater treatment system or facility under this section. The
20 department shall award the grants based on an evaluation of how effectively each
21 proposal meets the following criteria:

22 (1) protect or improve public health;

23 (2) protect or improve water quality;

24 (3) mitigate environmental impact caused by commercial passenger
25 vessels and passengers; and

26 (4) help port communities adapt to increased demand for seasonal
27 wastewater treatment resulting from wastewater produced by commercial passenger
28 vessels and passengers.

29 (h) Nothing in this section creates a dedicated fund.

30 (i) In this section, "municipality" means a political subdivision incorporated
31 under the laws of the state that is a home rule or general law city, a home rule or

1 general law borough, or a unified municipality.

2 * **Sec. 14.** AS 46.03.490(2) is amended to read:

3 (2) "commercial passenger vessel" means a vessel that carries
4 passengers for hire except that "commercial passenger vessel" does not include a
5 vessel

6 (A) authorized to carry fewer than 50 passengers;

7 (B) that does not provide overnight accommodations for at
8 least 50 passengers for hire [, DETERMINED WITH REFERENCE TO THE
9 NUMBER OF LOWER BERTHS]; or

10 (C) operated by the United States or a foreign government;

11 * **Sec. 15.** AS 46.03.490(13) is amended to read:

12 (13) "small commercial passenger vessel" means a commercial
13 passenger vessel that provides overnight accommodations for 249 or fewer passengers
14 for hire [, DETERMINED WITH REFERENCE TO THE NUMBER OF LOWER
15 BERTHS];

16 * **Sec. 16.** AS 46.03.490 is amended by adding a new paragraph to read:

17 (19) "wastewater" means any graywater or sewage, including any
18 graywater or sewage that is stored in or transferred to a ballast tank or other holding
19 area on the vessel that may not be customarily used for storing graywater or sewage.

20 * **Sec. 17.** AS 46.03.460(b), 46.03.461, 46.03.462, 46.03.465(i), 46.03.480(d),
21 46.03.480(e), 46.03.481, 46.03.490(1), 46.03.490(7), 46.03.490(10), 46.03.490(14), and
22 46.03.490(15) are repealed.

23 * **Sec. 18.** AS 46.03.476 is repealed.

24 * **Sec. 19.** AS 46.03.480(b) is repealed December 31, 2024.

25 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 TRANSITION: REGULATIONS. The Department of Environmental Conservation
28 shall adopt regulations necessary to implement this Act. The regulations take effect under
29 AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
30 implemented by the regulation.

31 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 RETROACTIVITY. Section 18 of this Act is retroactive to April 1, 2020.

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

5 REVISOR'S INSTRUCTION. The revisor of statutes is requested to consider
6 changing the catch line of AS 46.03.460 from "Program established" to "Regulation of
7 commercial passenger vessel discharges and environmental compliance."

8 * **Sec. 23.** Sections 18, 20, and 21 of this Act take effect immediately under
9 AS 01.10.070(c).

10 * **Sec. 24.** Except as provided in sec. 23 of this Act, this Act takes effect January 1, 2024.