

# Sectional Analysis

*Revised 6/7/01 6 p.m.*

## **Senate CS for CS HB260 (TRA)**

for version 22-LS0948\R

\* **Title Change**

\* Sec. 1 Findings - **DELETED**

\* **Renumbered** Sec. 1. AS 46.03 is amended by adding new sections to read:

Article 6A. Commercial Passenger Vessel **Environmental Compliance** Program.

Sec. 46.03.460. Program established.

(a) Establishes **Commercial Passenger Vessel Environmental Compliance Program**.  
**Minor word changes in (a) (1) and (2)**

(b) Authorizes DEC to adopt regulations through negotiated regulation making, as appropriate.

Sec. 46.03.461. Registration requirements.

(a) Requires the owner or operator of every commercial passenger vessel operating in Alaska to annually register with DEC by providing identifying information, designating an agent for service of process in Alaska and agreeing to comply with certain terms and conditions of permitting discharges. **Includes a registration process for the Alaska Marine Highway as those vessels will be in the marine waters of the state, the CS defines year for state owned and non-state owned vessels (Page 2, Lines 6 & 30-31; and Page 3, Lines 1-4) .**

(b) Requires the registration to be executed under oath.

(c) Authorizes DEC to require electronic registration.

(d) **Defines year for registering state owned and non-state owned vessels (Page 2, Lines 6 & 30-31; and Page 3, Lines 1-4) .**

Sec. 46.03.462. Terms and Conditions of Discharges.

**\*Throughout this section, either the word "vessel or "allowed" has been substituted for "Permitted" or permitting".**

(a) Requires owner/operator to comply either with standard or alternative terms and conditions of **vessel** discharges.

(b) Specifies standard terms and conditions of **vessel** discharges including restrictions on discharges, maintaining records, sampling, reporting and permitting the department to access the vessels.

(c) Specifies circumstances under which DEC can establish alternative terms and conditions of **vessel** discharges.

Sec. 46.03.463. Prohibited discharges; limitations on discharges

(a) Prohibits the discharge of untreated sewage from a commercial passenger vessel into the marine waters of the state.

(b) Prohibits the discharge of treated sewage from a commercial passenger vessel into the marine waters of the state where suspended solids level is greater than 150 or **the geometric mean of samples from the discharge** exceeds a fecal coliform bacterial count of 200.

(c) Prohibits the discharge of graywater from a commercial passenger vessel into the marine waters of the state where suspended solids level is greater than 150 or **the geometric mean of samples from the discharge** exceeds a fecal coliform bacterial count of 200.

Compliance **for large commercial passenger vessels** to be deferred until January 1, 2003 if owner/operator submits plan to DEC specifying interim protective measures. **Small commercial passenger vessels must have a plan for interim protective measures, and may have time extended for compliance with (b) or (c) - notwithstanding Section 7, Page 17.**

(d) Authorizes DEC to establish additional numeric or narrative standards for other parameters for sewage and graywater, taking into account best available science, **the materials and substances handled on the vessels** and available technologies.

(e) Requires that any discharge of treated sewage or graywater from a **large** commercial passenger vessel into the marine waters of the state only occur while the vessel is moving at a speed of at least 6 knots, the vessel is at least one nautical mile from shore, the discharge complies with all legal requirements and the ship is not in an area where discharges are otherwise prohibited.

**(f) Small commercial passenger vessels may only discharge sewage that has been processed through a properly operated and maintained marine sanitation device.**

(g) Adopts the federal law exception to the 'only underway, at least one nautical mile from shore' requirement in (e) to permit discharges that meet more rigorous standards (those used by DEC to regulate discharges in shellfish areas). This reflects the abilities of enhanced treatment equipment now being installed on some ships.

(h) Creates an exception to the no discharge rules in cases where the discharge is necessary for the safety of the vessel.

Sec. 46.03.465. Information-gathering requirements.

- (a) Requires that records are maintained, and reports are provided, to DEC with respect to discharges of sewage and gray water.
- (b) Requires that each commercial passenger vessel undertake a sampling and testing program of sewage and graywater being discharged into the marine waters of the state using a sampling technique approved by DEC. At least two tests must be done annually, or more if testing frequency under federal law is higher than two. **Redundant language on the testing was eliminated in the CS (was Page 8, lines 4-5 of House version).**
- (c) Authorizes DEC to require additional sampling and testing.
- (d) Samples must be tested to measure **the presence of** fecal coliform, ammonia, residual chlorine, pH, biochemical oxygen demand (BOD), chemical oxygen demand (COD), total suspended solids and other **parameters (typographical error)**, as required by DEC, using a DEC approved testing method.
- (e) Owner/operator to pay for routine sampling and testing under (b); DEC to pay for additional sampling and testing under (c).
- (f) Allows a vessel owner or operator to comply with these record-keeping, reporting and testing obligations by providing DEC with substantially equivalent information gathered in the course of meeting federal or other state requirements.

Sec. 46.03.470. Record keeping requirements.

Requires the vessel owner or operator to maintain records required under AS 46.03.465 for at least 3 years.

Sec. 46.03.475. Reporting requirements.

- (a) Requires owner/operator to self-report violations of the rules restricting sewage, treated sewage and graywater discharges. No audit report privilege exists.
- (b) Requires owner/operator to provide DEC with copies of all sewage and graywater test results that are provided to the U.S. Coast Guard or U.S. EPA.
- (c) Requires that sampling results obtained under AS 46.03.465 are provided to DEC within 21 days after the testing is done. Allows this requirement to be satisfied by providing substantially equivalent information already being provided to the federal government.
- (d) Requires owner/operator to provide DEC with copies of all notices and reports given to the U.S. federal government, the Canadian government or to a Canadian

provincial/territorial government involving the generation, discharge or offloading in Alaska of hazardous wastes or hazardous substances.

(e) Requires owner/operator to provide DEC with a description of procedures being used to offload ashore in Alaska hazardous wastes and nonhazardous solid wastes; **or disposing into marine waters nonhazardous solid waste other than sewage.**

(f) DEC authorized to require reports to be submitted electronically.

(g) These reporting requirements are in addition to any other reporting requirements under other laws.

Sec. 46.03.480. Fees.

(a) Adopts an **environmental compliance** fee program.

(b) Sets the fee at approximately \$1.00 per passenger per voyage, based on a vessel's lower berth capacity.

(c) Fee for state operated vessels to be determined by agreement between DEC and Department of Transportation and Public Facilities, **and based on the number of passengers the vessel is authorized to carry.**

(d) Makes the vessel liable for the fee. Payments dates to be set by DEC.

Sec. 46.03.482. Alaska commercial passenger vessel **environmental compliance** fund.

(a) Establishes the passenger vessel **environmental compliance** fund in the general fund.

(b) The fund includes the passenger fees, any amounts paid for civil violations, additional appropriations and earnings.

(c) Authorizes the legislature to appropriate from the fund to pay for DEC's **operational costs** for this program and for the marine vessel visible emissions program.

(d) Provides that the unexpended and unobligated balance does not lapse and remains available for expenditure in successive fiscal years.

(e) Does not create a dedicated fund.

Sec. 46.03.485. Recognition program.

Authorizes DEC to establish a program to recognize superior environmental protection efforts made by the owners or operators of vessels.

Sec. 46.03.487. Exemption for vessels in innocent passage.

In order to comply with international treaty requirements, this provision makes the registration and fee programs inapplicable to vessels that are only going through Alaska waters on their way between two points outside Alaska (in innocent passage). The limitations established in this legislation do not apply.

Sec. 46.03.488. Activities of the department.

Authorizes department to conduct certain monitoring, studying and research as to the environmental effects of discharges or releases of sewage, graywater into Alaska's marine waters and opacity of air emissions. **CS adds new (3) allowing a comparison of discharges from other point sources in state waters where commercial passenger vessels operate. The department may prepare the comparison using existing sources of information.**

Sec. 46.03.490. Definitions.

Specifies definitions.

**"commercial passenger vessel" includes vessels operated by the Alaska marine highway system and vessels not operated by the state able to carry greater than 50 passengers for hire;**

**"federal cruise ship legislation" has additional language**

**"fund" reflects name change of the fund**

**"large commercial passenger vessel" means vessels able to carry 250 or more passengers**

**"small commercial passenger vessel" means vessels able to carry 249 or fewer passengers for hire**

\* **Renumbered** Sec. 2. AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

Included to reflect creation of the new **environmental compliance** fund.

\***Renumbered** Sec. 3. AS 46.03.760(e) is amended to read:

Amends existing environmental civil violation statutes to make them also applicable to violations of these new requirements. Requires the court to take into consideration the volume of sewage or graywater discharged in determining the amount of a fine.

\***Renumbered** Sec. 4. AS 46.03.790(a) is amended to read:

Amends existing environmental criminal statutes to make them also applicable to violations of these new requirements.

\* **Renumbered** Sec. 5. Provides that first registration is due by July 3, 2001. **Rewritten (a) ensures that vessels in innocent passage would not inadvertently be swept up in this transition provision.**

\* **Renumbered** Sec. 6. Provides that the first fee payment is due by July 31, 2001 **for commercial vessels not operated by the state and January 31 of the fiscal year for state vessels.**

\* **Renumbered** Sec. 7. **Rewritten to provide an exemption from limitations on discharges (AS 46.03.463 (a)- (d) and fees (AS 46.03.480) for vessels with 249 or fewer passengers until January 1, 2004, and longer if the vessel has a plan for interim protective measures. These vessels must process sewage they intend to discharge through a properly operated and maintained marine sanitation device (Page 5, Lines 28-31).**

\* **Renumbered** Sec. 8. (a) **By December 1, 2002 DEC is to submit an Assessment Report evaluating the information received by DEC for the period 2000-02 related to small commercial passenger vessels. The report is to include recommendations for future action.**

(b) **By January 15, 2004, DEC is to submit an Assessment Report evaluating the information received by DEC for 2000-2003 related to all commercial passenger vessels subject to HB 260. The report includes a comparison of discharges from other point sources in state waters where commercial passenger vessels operate. The department may prepare the comparison using existing sources of information.**

\* **Renumbered** Sec. 9. Allows DEC to begin work immediately on regulations.

\* **Renumbered** Sec. 10. Section 9 to take effect immediately.

\* **Renumbered** Sec. 11. July 1, 2001 effective date.