

HOUSE BILL NO. 367

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE MILLETT

Introduced: 2/21/18

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the liability of a Native corporation for the release or threatened**
2 **release of hazardous substances present on certain lands."**

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

4 *** Section 1.** AS 46.03.822(a) is amended to read:

5 (a) Notwithstanding any other provision or rule of law and subject only to the
6 defenses set out in (b) **and (n)** of this section, the exception set out in (i) of this
7 section, the exception set out in AS 09.65.240, and the limitation on liability provided
8 under AS 46.03.825, the following persons are strictly liable, jointly and severally, for
9 damages, for the costs of response, containment, removal, or remedial action incurred
10 by the state, a municipality, or a village, and for the additional costs of a function or
11 service, including administrative expenses for the incremental costs of providing the
12 function or service, that are incurred by the state, a municipality, or a village, and the
13 costs of projects or activities that are delayed or lost because of the efforts of the state,
14 the municipality, or the village, resulting from an unpermitted release of a hazardous

1 substance or, with respect to response costs, the substantial threat of an unpermitted
2 release of a hazardous substance:

3 (1) the owner of, and the person having control over, the hazardous
4 substance at the time of the release or threatened release; this paragraph does not apply
5 to a consumer product in consumer use;

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

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

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

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

24 * **Sec. 2.** AS 46.03.822(m) is amended by adding a new paragraph to read:

25 (3) "Native corporation" has the meaning given in 43 U.S.C. 1602(m).

26 * **Sec. 3.** AS 46.03.822 is amended by adding a new subsection to read:

27 (n) In an action to recover damages or costs, a Native corporation otherwise
28 liable under this section is relieved from liability under this section if the Native
29 corporation proves that the release or threatened release of the hazardous substance to
30 which the damages relate occurred on land granted to the Native corporation under 43
31 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act) and the hazardous

1 substance was present on the land at the time the land was granted.

2 * **Sec. 4.** AS 46.03.822(c)(3) is repealed.