

HOUSE CS FOR SENATE BILL NO. 202(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/11/18

Referred: Rules

Sponsor(s): SENATORS HOFFMAN, Bishop, Giessel, Stevens, Stedman, Olson

REPRESENTATIVE Edgmon

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) of this section, the exceptions [EXCEPTION] set out in (i) **and**
7 **(n)** of this section, the exception set out in AS 09.65.240, and the limitation on
8 liability provided under AS 46.03.825, the following persons are strictly liable, jointly
9 and severally, for damages, for the costs of response, containment, removal, or
10 remedial action incurred by the state, a municipality, or a village, and for the
11 additional costs of a function or service, including administrative expenses for the
12 incremental costs of providing the function or service, that are incurred by the state, a
13 municipality, or a village, and the costs of projects or activities that are delayed or lost
14 because of the efforts of the state, the municipality, or the village, resulting from an

1 unpermitted release of a hazardous substance or, with respect to response costs, the
2 substantial threat of an unpermitted 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) A Native corporation that acquired land under 43 U.S.C. 1601 et seq.
28 (Alaska Native Claims Settlement Act) is not liable under this section for a release or
29 threatened release of a hazardous substance on the land unless the Native corporation,
30 by an act or omission, caused or contributed to the release or threatened release of the
31 hazardous substance.

1 * **Sec. 4.** AS 46.03.822(c)(3) is repealed.