

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 269
HOUSE BILL 713

AN ACT TO MINIMIZE THE LEGAL LIABILITY OF GOOD SAMARITANS
ASSISTING IN PREVENTING OR CLEANING UP DISCHARGES OF
HAZARDOUS MATERIALS.

The General Assembly of North Carolina enacts:

Section 1. Article 21A of Chapter 143 of the General Statutes is amended by adding a Part after Part 4. to read:

"Part 5. Limitation On Liability For Hazardous
Materials Abatement.

"§ 143-215.103. **Definitions.**—As used in this Part, unless the context otherwise requires:

- (1) 'Discharge' shall mean leakage, seepage, or other release.
- (2) 'Hazardous materials' shall mean oil, low-level radioactive waste, and all materials and substances which are now or hereafter defined as toxic or hazardous by any State or federal law or by the regulations of any State or federal government agency.
- (3) 'Person' shall mean any individual, partnership, corporation, association, or other entity or employee thereof.

"§ 143-215.104. **Limited liability for volunteers in hazardous material abatement.**—Any person who provides assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened discharge of hazardous materials, or in preventing, cleaning up, or disposing of or in attempting to prevent, clean up or dispose of any such discharge, when the reasonably apparent circumstances indicate the need for prompt decisions and action, shall not be subject to civil liabilities of any type, unless:

- (1) prior to providing assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened discharge or in preventing, cleaning up, or disposal of or in attempting to prevent cleanup or disposal of any such discharge, he had incurred liability for the actual or threatened discharge;
- (2) he receives compensation other than reimbursement for out-of-pocket expenses for his services in rendering assistance or advice, except that an individual receiving compensation for employment from his regular employer for services performed in preventing, cleaning up, or disposing of or in attempting to prevent, clean up or dispose of a discharge shall not be deemed to have received compensation if his employer is entitled to the protection afforded by this Part; or

- (3) his act or omission led to damages resulting from his gross negligence, or from his reckless, wanton, or intentional misconduct.

The limited immunity provided herein shall not be applicable to any act or omission or occurrence involving the operation of a motor vehicle. The limited immunity provided herein is waived to the extent of any indemnification by insurance for damages caused by such volunteer."

Sec. 2. G.S. 130A-22 is amended by adding a subsection after subsection (a) to read:

"(a1) Part 5 of Article 21A of Chapter 143 of the General Statutes shall apply to the determination of civil liability or penalty pursuant to subsection (a) of this section."

Sec. 3. A new section is added to Chapter 143 of the General Statutes to read:

"§ 143-215.91A. Limited liability for volunteers in oil and hazardous substance abatement.—Part 5 of this Article shall apply to the determination of civil liability or penalty pursuant to this Article."

Sec. 4. A new section is added to Chapter 104E of the General Statutes to read:

"§ 104E-25. Limited liability for volunteers in low-level radioactive waste abatement.—Part 5 of Article 21A of Chapter 143 of the General Statutes shall apply to civil liability and penalties pursuant to this Chapter."

Sec. 5. This act is effective upon ratification and shall apply to causes of action arising after the date of ratification.

In the General Assembly read three times and ratified this the 2nd day of June, 1987.