

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 520  
Committee Substitute Favorable 4/30/91  
Third Edition Engrossed 5/3/91

Short Title: Liability for Oil Spill Cleanup.

(Public)

Sponsors:

Referred to:

April 1, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO LIMIT THE LIABILITY OF PERSONS RESPONDING TO OIL  
3 SPILLS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Part 2 of Article 21A of Chapter 143 of the General Statutes is  
6 amended by adding a new section to read:

7 "**§ 143-215.93A. Limited liability for persons engaged in removal of oil discharges.**

8 (a) A person is not liable under this Part or under Part 2C of this Article for  
9 removal costs or damages which result from, arise out of, or are related to the discharge  
10 or threatened discharge of oil, when such removal costs or damages result from acts or  
11 omissions in the course of rendering care, assistance, or advice consistent with the  
12 National Contingency Plan or as otherwise directed by the President of the United  
13 States, the Federal On-Scene Coordinator, the Governor, the Secretary, the Secretary of  
14 Crime Control and Public Safety, or any person designated to direct oil discharge  
15 removal activities by the President of the United States, the Governor, the Secretary, or  
16 the Secretary of Crime Control and Public Safety.

17 (b) This section does not apply:

18 (1) To a responsible party;

19 (2) To a response under CERCLA/SARA;

20 (3) To a response under Part 3 of Article 9 of Chapter 130A of the General  
21 Statutes;

22 (4) To a cleanup under Part 2A of this Article;

- 1           (5) With respect to personal injury or wrongful death; or  
2           (6) If the person is grossly negligent or engages in willful misconduct.  
3       (c) A responsible party is liable for any removal costs and damages that another  
4 person is relieved of under this section.  
5       (d) Nothing in this section affects the obligation of an owner or operator to  
6 respond immediately to a discharge, or the threat of a discharge, of oil.  
7       (e) As used in this section:  
8           (1) 'CERCLA/SARA' means the Comprehensive Environmental  
9 Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-  
10 510, 94 Stat. 2767, 42 § U.S.C. 9601 et seq., as amended, and the  
11 Superfund Amendments and Reauthorization Act of 1986, Pub. L. No.  
12 99-499, 100 Stat. 1613, as amended.  
13           (2) 'Damages' has the same meaning as in the Oil Pollution Act of 1990,  
14 33 U.S.C. § 2701, and in G.S. 143-215.94BB.  
15           (3) 'Federal On-Scene Coordinator' means a person designated as such in  
16 the National Contingency Plan.  
17           (4) 'National Contingency Plan' has the same meaning as in 33 U.S.C. §  
18 1321, as amended.  
19           (5) 'Oil Pollution Act of 1990' means the Oil Pollution Act of 1990, Pub.  
20 L. No. 101-380, 104 Stat. 484, which appears generally as 33 U.S.C. §  
21 2701 et seq., as amended.  
22           (6) 'Remove' or 'removal' has the same meaning as in the Oil Pollution Act  
23 of 1990, 33 U.S.C. § 2701.  
24           (7) 'Removal costs' has the same meaning as in the Oil Pollution Act of  
25 1990, 33 U.S.C. § 2701.  
26           (8) 'Responsible party' means a person who is a 'responsible party' as  
27 defined in the Oil Pollution Act of 1990, 33 U.S.C. § 2701, and who is  
28 liable for removal costs or damages which result from, arise out of, or  
29 are related to the discharge or threatened discharge of oil."  
30       Sec. 2. This act is effective October 1, 1991, and applies to discharges or  
31 threatened discharges occurring after that date.