

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 520

Committee Substitute Favorable 4/30/91

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Senate Environment & Natural Resources Committee Substitute Adopted 6/17/91

Short Title: Liability for Oil Spill Cleanup.

(Public)

Sponsors:

Referred to:

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE LIABILITY OF PERSONS RESPONDING TO OIL SPILLS.

The General Assembly of North Carolina enacts:

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

"§ 143-215.93A. Limitation on liability of persons engaged in removal of oil discharges.

(a) Except as provided in subsection (b) of this section, a person is not liable under this Part, Part 2C of this Article, Articles 21 and 21B of this Chapter, other provisions of the General Statutes relating to protection of the environment or public health, Chapter 1B of the General Statutes, or common law causes of action in tort for removal costs or damages which result from, arise out of, or are related to the discharge or threatened discharge of oil, when such removal costs or damages result from acts or omissions in the course of rendering care, assistance, or advice consistent with the National Contingency Plan or as otherwise directed by the President of the United States, the Federal On-Scene Coordinator, the Governor, the Secretary, the Secretary of Crime Control and Public Safety, or any person designated to direct oil discharge removal activities by the President of the United States, the Governor, the Secretary, or the Secretary of Crime Control and Public Safety.

(b) The limitation on liability under subsection (a) of this section does not apply:

- 1 (1) To a responsible party;
2 (2) To a response under CERCLA/SARA or under Part 4 of Article 9 of
3 Chapter 130A of the General Statutes;
4 (3) To a response under Part 3 of Article 9 of Chapter 130A of the General
5 Statutes;
6 (4) To a cleanup under Part 2A of this Article;
7 (5) With respect to personal injury or wrongful death; or
8 (6) If the person is grossly negligent or engages in willful misconduct.
9 (c) A responsible party is liable for any removal costs and damages that another
10 person is relieved of under this section.
11 (d) Nothing in this section affects the obligation of an owner or operator to
12 respond immediately to a discharge, or the threat of a discharge, of oil.
13 (e) As used in this section:
14 (1) 'CERCLA/SARA' means the Comprehensive Environmental
15 Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-
16 510, 94 Stat. 2767, 42 § U.S.C. 9601 et seq., as amended, and the
17 Superfund Amendments and Reauthorization Act of 1986, Pub. L. No.
18 99-499, 100 Stat. 1613, as amended.
19 (2) 'Damages' has the same meaning as in the Oil Pollution Act of 1990,
20 33 U.S.C. § 2701, and in G.S. 143-215.94BB.
21 (3) 'Federal On-Scene Coordinator' means a person designated as such in
22 the National Contingency Plan.
23 (4) 'National Contingency Plan' has the same meaning as in 33 U.S.C. §
24 1321, as amended.
25 (5) 'Oil Pollution Act of 1990' means the Oil Pollution Act of 1990, Pub.
26 L. No. 101-380, 104 Stat. 484, which appears generally as 33 U.S.C. §
27 2701 et seq., as amended.
28 (6) 'Remove' or 'removal' has the same meaning as in the Oil Pollution Act
29 of 1990, 33 U.S.C. § 2701.
30 (7) 'Removal costs' has the same meaning as in the Oil Pollution Act of
31 1990, 33 U.S.C. § 2701.
32 (8) 'Responsible party' means a person who is a 'responsible party' as
33 defined in the Oil Pollution Act of 1990, 33 U.S.C. § 2701, and who is
34 liable for removal costs or damages which result from, arise out of, or
35 are related to the discharge or threatened discharge of oil."

36 Sec. 2. This act becomes effective 1 October 1991 and applies to discharges
37 or threatened discharges occurring on or after that date.