

No. 1992-52

AN ACT

HB 1667

Providing for liability of persons responding to oil spills.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Oil Spill Responder Liability Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Damages.” Damages of any kind for which liability may exist under the laws of this Commonwealth resulting from, arising out of or related to the discharge or threatened discharge of oil.

“Department.” The Department of Environmental Resources of the Commonwealth.

“Discharge.” Any emission other than natural seepage, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.

“Federal on-scene coordinator.” The Federal official predesignated by the United States Environmental Protection Agency or the United States Coast Guard to coordinate and direct Federal responses under Subpart D or the official designated by the lead agency to coordinate and direct removal under Subpart E of the National Contingency Plan.

“National Contingency Plan.” The National Contingency Plan prepared and published under section 311(d) of the Federal Water Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et seq.), as amended by the Oil Pollution Act of 1990 (Public Law 101-380, 104 Stat. 484).

“Oil.” Oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

“Person.” An individual, corporation, partnership, association, cooperative, state, municipality, commission or political subdivision of a state or any interstate body.

“Removal costs.” The costs of removal, abatement, containment or disposal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize or mitigate oil pollution from such an incident.

“Responsible party.” A responsible party as defined under section 1001 of the Oil Pollution Act of 1990 (Public Law 101-380, 104 Stat. 484).

Section 3. Liability.

(a) **Responders.**—Notwithstanding any other provision of law, a person rendering care, assistance or advice with respect to the discharge or threatened discharge of oil where the care, assistance or advice is taken pursuant to or consistent with the National Contingency Plan or a State contingency plan or as otherwise directed by the Federal on-scene coordinator or the department or by the State official with responsibility for oil spill response or, in an emergency situation, pursuant to the request of the responsible party attempting to prevent the threatened discharge of oil shall not be liable for removal costs or damages resulting from actions taken or omitted to be taken relating to such care, assistance or advice except for any acts or omissions which constitute gross negligence or willful misconduct.

(b) **Responsibility.**—Nothing in this act shall exempt a responsible party from liability for removal costs or damages. A responsible party shall be liable for any removal costs and damages for which another person is relieved under subsection (a).

(c) **Personal injury.**—Nothing in this act shall limit the liability of a person with respect to personal injury or wrongful death.

Section 4. Effective date.

This act shall take effect in 60 days.

APPROVED—The 11th day of June, A. D. 1992.

ROBERT P. CASEY