

FILED JAN 22 1998

SENATE FILE 2057
BY DEARDEN

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the transportation of oil and hazardous
2 material on the Mississippi river and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2057

1 Section 1. Section 455B.701, subsection 1, Code 1997, is
2 amended to read as follows:

3 1. DEFINITIONS. As used in this ~~section~~ division, unless
4 the context otherwise requires:

5 a. "Bulk" means an undivided quantity of a substance that
6 is loaded directly into a vessel and is not divided into
7 individual containers.

8 a- b. "Damages" means damages of any kind for which
9 liability may exist under the laws of this state resulting
10 from, arising out of, or relating to the discharge or
11 threatened discharge of oil.

12 b- c. "Discharge" means any emission, other than natural
13 seepage, intentional or unintentional, and includes, but is
14 not limited to, spilling, leaking, pumping, pouring, emitting,
15 emptying, or dumping.

16 d. "Double hull" means a watertight protective space that
17 does not carry any oil or hazardous material and that
18 separates the sides, bottom, forward end, and aft end of all
19 tanks that hold any oil or hazardous material within the cargo
20 tanks from the outer skin of the vessel, as prescribed in 33
21 C.F.R. § 157.10d.

22 e- e. "Federal on-scene coordinator" means the federal
23 official designated by the federal agency in charge of the
24 removal efforts or by the United States environmental
25 protection agency or the United States coast guard to
26 coordinate and direct responses under the national contingency
27 plan.

28 f. "Hazardous material" means hazardous material as
29 defined in 46 U.S.C. § 2101(14).

30 d- g. "National contingency plan" means the national
31 contingency plan prepared and published under 33 U.S.C. §
32 1321(d).

33 e- h. "Oil" means oil of any kind or in any form,
34 including, but not limited to, petroleum, fuel oil, sludge,
35 oil refuse, and oil mixed with wastes other than dredged

1 spoil.

2 f. i. "Remove" or "removal" means containment and removal
3 of oil or a hazardous substance from water and shorelines or
4 the taking of other actions as may be necessary to minimize or
5 mitigate damage to the public health or welfare, including,
6 but not limited to, fish, shellfish, wildlife, and public and
7 private property, shorelines, and beaches.

8 g. j. "Removal costs" means the costs of removal that are
9 incurred after a discharge of oil has occurred or, in any case
10 in which there is a substantial threat of a discharge of oil,
11 the costs to prevent, minimize, or mitigate oil pollution from
12 such an incident.

13 h. k. "Responsible party" means a responsible party as
14 defined under 33 U.S.C. § 2701.

15 1. "Tank vessel" means a vessel that is constructed or
16 adapted to carry, or that does carry, oil or hazardous
17 material in bulk as cargo or cargo residue.

18 Sec. 2. NEW SECTION. 455B.702 PROHIBITION.

19 A tank vessel of under five thousand gross tons shall not
20 transport oil or hazardous material in bulk on that part of
21 the Mississippi river over which Iowa has jurisdiction, unless
22 the tank vessel has a double hull. This section shall not
23 apply to any of the following:

24 1. A tank vessel when the tank vessel and the tank
25 vessel's crew are in danger due to extreme weather conditions.

26 2. A self-propelled tank vessel or a tank vessel that is
27 propelled by a towing vessel if a tugboat accompanies the
28 self-propelled tank vessel or accompanies the tank vessel and
29 towing vessel.

30 Sec. 3. NEW SECTION. 455B.703 INSPECTION.

31 An authorized employee or agent of the department may board
32 and inspect a tank vessel that is subject to this division to
33 determine the state of compliance with this division.

34 Sec. 4. NEW SECTION. 455B.704 PENALTIES.

35 1. A person who owns or controls the movement of a tank

1 vessel which is in violation of section 455B.702 is guilty of
2 a serious misdemeanor punishable by a fine of at least five
3 thousand dollars, but not more than ten thousand dollars.

4 2. A person who owns or controls the movement of a tank
5 vessel which is in violation of section 455B.702 and who,
6 within five years prior to the current violation, was
7 previously convicted of violating section 455B.702 is guilty
8 of a serious misdemeanor punishable by a fine of at least ten
9 thousand dollars, but not more than twenty-five thousand
10 dollars, imprisonment for not more than six months, or both.

11 3. In addition to the criminal penalties in subsections 1
12 and 2, a person who owns or controls the movement of a tank
13 vessel which is in violation of section 455B.702, from which
14 oil or a hazardous material is discharged, is subject to a
15 penalty of triple the cost of remedying the resulting
16 environmental damage.

17 Sec. 5. NEW SECTION. 455B.705 ENFORCEMENT.

18 1. The attorney general shall enforce violations of
19 section 455B.702 and may bring an action in the district court
20 of the county where the violation was allegedly committed and
21 discovered. The director may enter into agreements with the
22 attorney general to assist with the administration and
23 enforcement of section 455B.702.

24 2. The district court may make any order, including but
25 not limited to an injunction or temporary restraining order,
26 and impose any other remedy or relief relating to the
27 investigation, enforcement, and prosecution of violations of
28 section 455B.702.

29 Sec. 6. NEW SECTION. 455B.706 ALLOCATION OF PROCEEDS.

30 The proceeds of any penalties and forfeitures imposed under
31 section 455B.704 and chapter 809A shall be used to reimburse
32 the following costs, in order of priority, with any remaining
33 proceeds being deposited in the general fund of the state:

34 1. Court costs.

35 2. Costs related to investigation and prosecution by the

1 spoil.

2 f- i. "Remove" or "removal" means containment and removal
3 of oil or a hazardous substance from water and shorelines or
4 the taking of other actions as may be necessary to minimize or
5 mitigate damage to the public health or welfare, including,
6 but not limited to, fish, shellfish, wildlife, and public and
7 private property, shorelines, and beaches.

8 g- j. "Removal costs" means the costs of removal that are
9 incurred after a discharge of oil has occurred or, in any case
10 in which there is a substantial threat of a discharge of oil,
11 the costs to prevent, minimize, or mitigate oil pollution from
12 such an incident.

13 h- k. "Responsible party" means a responsible party as
14 defined under 33 U.S.C. § 2701.

15 l. "Tank vessel" means a vessel that is constructed or
16 adapted to carry, or that does carry, oil or hazardous
17 material in bulk as cargo or cargo residue.

18 Sec. 2. NEW SECTION. 455B.702 PROHIBITION.

19 A tank vessel of under five thousand gross tons shall not
20 transport oil or hazardous material in bulk on that part of
21 the Mississippi river over which Iowa has jurisdiction, unless
22 the tank vessel has a double hull. This section shall not
23 apply to any of the following:

24 1. A tank vessel when the tank vessel and the tank
25 vessel's crew are in danger due to extreme weather conditions.

26 2. A self-propelled tank vessel or a tank vessel that is
27 propelled by a towing vessel if a tugboat accompanies the
28 self-propelled tank vessel or accompanies the tank vessel and
29 towing vessel.

30 Sec. 3. NEW SECTION. 455B.703 INSPECTION.

31 An authorized employee or agent of the department may board
32 and inspect a tank vessel that is subject to this division to
33 determine the state of compliance with this division.

34 Sec. 4. NEW SECTION. 455B.704 PENALTIES.

35 1. A person who owns or controls the movement of a tank

1 vessel which is in violation of section 455B.702 is guilty of
2 a serious misdemeanor punishable by a fine of at least five
3 thousand dollars, but not more than ten thousand dollars.

4 2. A person who owns or controls the movement of a tank
5 vessel which is in violation of section 455B.702 and who,
6 within five years prior to the current violation, was
7 previously convicted of violating section 455B.702 is guilty
8 of a serious misdemeanor punishable by a fine of at least ten
9 thousand dollars, but not more than twenty-five thousand
10 dollars, imprisonment for not more than six months, or both.

11 3. In addition to the criminal penalties in subsections 1
12 and 2, a person who owns or controls the movement of a tank
13 vessel which is in violation of section 455B.702, from which
14 oil or a hazardous material is discharged, is subject to a
15 penalty of triple the cost of remedying the resulting
16 environmental damage.

17 Sec. 5. NEW SECTION. 455B.705 ENFORCEMENT.

18 1. The attorney general shall enforce violations of
19 section 455B.702 and may bring an action in the district court
20 of the county where the violation was allegedly committed and
21 discovered. The director may enter into agreements with the
22 attorney general to assist with the administration and
23 enforcement of section 455B.702.

24 2. The district court may make any order, including but
25 not limited to an injunction or temporary restraining order,
26 and impose any other remedy or relief relating to the
27 investigation, enforcement, and prosecution of violations of
28 section 455B.702.

29 Sec. 6. NEW SECTION. 455B.706 ALLOCATION OF PROCEEDS.

30 The proceeds of any penalties and forfeitures imposed under
31 section 455B.704 and chapter 809A shall be used to reimburse
32 the following costs, in order of priority, with any remaining
33 proceeds being deposited in the general fund of the state:

34 1. Court costs.

35 2. Costs related to investigation and prosecution by the

1 attorney general.

2 3. Costs incurred by the department in administering and
3 enforcing this division.

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EXPLANATION

5 This bill creates restrictions for tank vessels
6 transporting oil or hazardous material in bulk on the part of
7 the Mississippi river over which Iowa has jurisdiction.

8 The bill prohibits a tank vessel of under 5,000 gross tons
9 from transporting oil or hazardous material on the part of the
10 Mississippi river over which Iowa has jurisdiction unless the
11 tank vessel has a double hull. This prohibition does not
12 apply if the tank vessel and the tank vessel's crew are in
13 danger due to extreme weather conditions or if a tugboat
14 accompanies a self-propelled tank vessel or a tank vessel
15 propelled by a towing vessel. The bill authorizes the
16 department of natural resources to board and inspect a tank
17 vessel to determine the state of compliance.

18 The bill provides penalties for violations of the tank
19 vessel prohibitions. A person violating the tank vessel
20 prohibitions is guilty of a serious misdemeanor punishable by
21 a fine of at least \$5,000, but not more than \$10,000. If a
22 person violates the tank vessel prohibitions and has been
23 found guilty of violating the prohibitions within the five
24 years prior to the current violation, then the person is
25 guilty of a serious misdemeanor punishable by a fine of at
26 least \$10,000, imprisonment for not more than six months, or
27 both. For all first and subsequent offenses, the person is
28 subject to an additional penalty of triple the cost of
29 remedying environmental damage which results from any oil or
30 hazardous material discharged from the vessel. The forfeiture
31 provisions of Code chapter 809A may be applicable if a person
32 is found guilty of a serious misdemeanor.

33 The bill provides the attorney general with the authority
34 to enforce the tank vessel prohibitions. The director of the
35 department of natural resources may enter into an agreement

1 with the attorney general to assist with administration and
2 enforcement of the tank vessel prohibitions.

3 The proceeds of any penalties and forfeitures must be used
4 to reimburse the following costs, in order of priority: court
5 costs, costs related to investigation and prosecution by the
6 attorney general, and costs incurred by the department of
7 natural resources. Any remaining proceeds must be deposited
8 in the general fund of the state.

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