

*Substituted for
SF 387
3/30/95 (P.991)*

MAR 16 1995

Place On Calendar

HOUSE FILE 478

BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 284)

(p.962)
Passed House, Date 3/23/95

(p.991)
Passed Senate, Date 3-30-95

Vote: Ayes 95 Nays 0

Vote: Ayes 50 Nays 0

Approved April 6, 1995

A BILL FOR

1 An Act providing limited immunity for persons responding to oil
2 spills.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 478

1 Section 1. NEW SECTION. 455B.701 OIL SPILL IMMUNITY.

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

4 a. "Damages" means damages of any kind for which liability
5 may exist under the laws of this state resulting from, arising
6 out of, or relating to the discharge or threatened discharge
7 of oil.

8 b. "Discharge" means any emission, other than natural
9 seepage, intentional or unintentional, and includes, but is
10 not limited to, spilling, leaking, pumping, pouring, emitting,
11 emptying, or dumping.

12 c. "Federal on-scene coordinator" means the federal
13 official designated by the federal agency in charge of the
14 removal efforts or by the United States environmental
15 protection agency or the United States coast guard to
16 coordinate and direct responses under the national contingency
17 plan.

18 d. "National contingency plan" means the national
19 contingency plan prepared and published under 33 U.S.C. §
20 1321(d).

21 e. "Oil" means oil of any kind or in any form, including,
22 but not limited to, petroleum, fuel oil, sludge, oil refuse,
23 and oil mixed with wastes other than dredged spoil.

24 f. "Remove" or "removal" means containment and removal of
25 oil or a hazardous substance from water and shorelines or the
26 taking of other actions as may be necessary to minimize or
27 mitigate damage to the public health or welfare, including,
28 but not limited to, fish, shellfish, wildlife, and public and
29 private property, shorelines, and beaches.

30 g. "Removal costs" means the costs of removal that are
31 incurred after a discharge of oil has occurred or, in any case
32 in which there is a substantial threat of a discharge of oil,
33 the costs to prevent, minimize, or mitigate oil pollution from
34 such an incident.

35 h. "Responsible party" means a responsible party as

1 defined under 33 U.S.C. § 2701.

2 2. EXEMPTION FROM LIABILITY.

3 a. Notwithstanding any other provisions of law, a person
4 is not liable for removal costs or damages which result from
5 acts or omissions taken or made in the course of rendering
6 care, assistance, or advice consistent with the national
7 contingency plan or as otherwise directed by the federal on-
8 scene coordinator or by the state official with responsibility
9 for oil spill response.

10 b. Paragraph "a" does not apply to the following:

11 (1) A responsible party.

12 (2) When the damage involves personal injury or wrongful
13 death.

14 (3) If the person is grossly negligent or engages in
15 willful misconduct.

16 c. A responsible party is liable for any removal costs and
17 damages that another person is relieved of under paragraph
18 "a".

19 d. This section does not affect the liability of a
20 responsible party for oil spill response under state law.

21 EXPLANATION

22 This bill provides that a person is not liable for removal
23 costs or damages which result from actions or omissions taken
24 or made in the course of rendering care, assistance, or advice
25 consistent with the national contingency plan or as otherwise
26 directed by the federal on-scene coordinator or by the state
27 official with responsibility for oil spill response. However,
28 the immunity does not apply to a responsible party, when the
29 damage involves personal injury or wrongful death, or if the
30 person is grossly negligent or engages in willful misconduct.
31 The bill refers to 33 U.S.C. § 2701 for a definition of
32 responsible party. A responsible party means any person
33 owning, operating, or chartering a vessel; any person owning
34 or operating an onshore facility, with certain exceptions; the
35 lessee or permittee of the area of an offshore facility, with

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1 certain exceptions; the licensee of a deepwater port; or any
2 person owning or operating a pipeline.

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Bradley - Chair
Gries
Drees

HSB 284

ENVIRONMENTAL PROTECTION
Succeeded by

HOUSE FILE 478

BY (PROPOSED COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL BY CHAIRPERSON GREINER)

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

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9 seepage, intentional or unintentional, and includes, but is
10 not limited to, spilling, leaking, pumping, pouring, emitting,
11 emptying, or dumping.

12 c. "Federal on-scene coordinator" means the federal
13 official designated by the federal agency in charge of the
14 removal efforts or by the United States environmental
15 protection agency or the United States coast guard to
16 coordinate and direct responses under the national contingency
17 plan.

18 d. "National contingency plan" means the national
19 contingency plan prepared and published under 33 U.S.C. §
20 1321(d).

21 e. "Oil" means oil of any kind or in any form, including,
22 but not limited to, petroleum, fuel oil, sludge, oil refuse,
23 and oil mixed with wastes other than dredged spoil.

24 f. "Remove" or "removal" means containment and removal of
25 oil or a hazardous substance from water and shorelines or the
26 taking of other actions as may be necessary to minimize or
27 mitigate damage to the public health or welfare, including,
28 but not limited to, fish, shellfish, wildlife, and public and
29 private property, shorelines, and beaches.

30 g. "Removal costs" means the costs of removal that are
31 incurred after a discharge of oil has occurred or, in any case
32 in which there is a substantial threat of a discharge of oil,
33 the costs to prevent, minimize, or mitigate oil pollution from
34 such an incident.

35 h. "Responsible party" means a responsible party as

1 defined under 33 U.S.C. § 2701.

2 2. EXEMPTION FROM LIABILITY.

3 a. Notwithstanding any other provisions of law, a person
4 is not liable for removal costs or damages which result from
5 acts or omissions taken or made in the course of rendering
6 care, assistance, or advice consistent with the national
7 contingency plan or as otherwise directed by the federal on-
8 scene coordinator or by the state official with responsibility
9 for oil spill response.

10 b. Paragraph "a" does not apply to the following:

11 (1) A responsible party.

12 (2) When the damage involves personal injury or wrongful
13 death.

14 (3) If the person is grossly negligent or engages in
15 willful misconduct.

16 c. A responsible party is liable for any removal costs and
17 damages that another person is relieved of under paragraph
18 "a".

19 d. This section does not affect the liability of a
20 responsible party for oil spill response under state law.

21 EXPLANATION

22 This bill provides that a person is not liable for removal
23 costs or damages which result from actions or omissions taken
24 or made in the course of rendering care, assistance, or advice
25 consistent with the national contingency plan or as otherwise
26 directed by the federal on-scene coordinator or by the state
27 official with responsibility for oil spill response. However,
28 the immunity does not apply to a responsible party, when the
29 damage involves personal injury or wrongful death, or if the
30 person is grossly negligent or engages in willful misconduct.
31 The bill refers to 33 U.S.C. § 2701 for a definition of
32 responsible party. A responsible party means any person
33 owning, operating, or chartering a vessel; any person owning
34 or operating an onshore facility, with certain exceptions; the
35 lessee or permittee of the area of an offshore facility, with

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1 certain exceptions; the licensee of a deepwater port; or any
2 person owning or operating a pipeline.

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HOUSE FILE 478

AN ACT

PROVIDING LIMITED IMMUNITY FOR PERSONS RESPONDING TO OIL SPILLS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 455B.701 OIL SPILL IMMUNITY.

1. DEFINITIONS. As used in this section, unless the context otherwise requires:

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

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

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

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

e. "Oil" means 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.

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

g. "Removal costs" means the costs of removal 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.

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

2. EXEMPTION FROM LIABILITY.

a. Notwithstanding any other provisions of law, a person is not liable for removal costs or damages which result from acts or omissions taken or made in the course of rendering care, assistance, or advice consistent with the national contingency plan or as otherwise directed by the federal on-scene coordinator or by the state official with responsibility for oil spill response.

b. Paragraph "a" does not apply to the following:

- (1) A responsible party.
- (2) When the damage involves personal injury or wrongful death.
- (3) If the person is grossly negligent or engages in willful misconduct.

c. A responsible party is liable for any removal costs and damages that another person is relieved of under paragraph "a".

d. This section does not affect the liability of a responsible party for oil spill response under state law.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 478, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 6, 1995

TERRY E. BRANSTAD
Governor