

CHAPTER 15**IMMUNITY FROM LIABILITY REGARDING OIL SPILL RESPONSE****H.F. 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.

Approved April 6, 1995