

SB 415

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 415

(By Senators *ROSS & HELMICK*)



PASSED MARCH 9, 1996

In Effect NINETY DAYS FROM Passage

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FOR

Senate Bill No. 415

(SENATORS ROSS AND HELMICK, *original sponsors*)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-two-a, relating generally to creating the West Virginia limited liability for persons responding to oil discharges act; providing definitions; and providing limited immunity from liability for removal costs and damages for those persons responding to oil discharges or the threat of oil discharges.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended

by adding thereto a new article, designated article twenty-two-a, to read as follows:

ARTICLE 22A. WEST VIRGINIA LIMITED LIABILITY FOR PERSONS RESPONDING TO OIL DISCHARGES ACT.

§22-22A-1. Short title.

- 1 This article may be cited as the "West Virginia Limited
- 2 Liability for Persons Responding to Oil Discharges Act".

§22-22A-2. Definitions.

- 1 For the purposes of this article:
- 2 (a) "Damages" means damages of any kind for which
- 3 liability may exist under the laws of this state resulting
- 4 from, arising out of, or related to the discharge or
- 5 threatened discharge of oil;
- 6 (b) "Discharge" means any emission (other than
- 7 natural seepage), intentional or unintentional, and
- 8 includes, but is not limited to, spilling, leaking, pumping,
- 9 pouring, emitting, emptying or dumping;
- 10 (c) "Federal on-scene coordinator" means the federal
- 11 official designated by the lead agency or predesignated
- 12 by the United States environmental protection agency or
- 13 the United States coast guard to coordinate and direct
- 14 responses under the national contingency plan (NCP);
- 15 (d) "National contingency plan" means the national
- 16 contingency plan prepared and published under Section
- 17 311(d) of the federal Water Pollution Control Act, 33
- 18 U.S.C. §1321(d), as amended by the Oil Pollution Act of
- 19 1990, Public Law No. 101-380, 104 Stat. 484 (1990) as in
- 20 effect as of the effective date of this article;
- 21 (e) "Oil" means oil of any kind or in any form, includ-
- 22 ing, but not limited to, petroleum, fuel oil, sludge, oil
- 23 refuse and oil mixed with wastes other than dredged
- 24 spoil;
- 25 (f) "Person" means an individual, corporation, partner-
- 26 ship, association, state, municipality, commission or
- 27 political subdivision of a state or any interstate body;

28 (g) "Remove" or "removal" means containment and
29 removal of oil or a hazardous substance from water and
30 shorelines or the taking of other actions as may be
31 necessary to minimize or mitigate damage to the public
32 health or welfare, including, but not limited to, fish,
33 shellfish, wildlife and public and private property,
34 shorelines and beaches;

35 (h) "Removal costs" means the costs of removal that
36 are incurred after a discharge of oil has occurred or, in
37 any case in which there is a substantial threat of a
38 discharge of oil, the costs to prevent, minimize or miti-
39 gate oil pollution from such an incident;

40 (i) "Responsible party" means a responsible party as
41 defined under §1001 of the Oil Pollution Act of 1990,
42 Public Law No. 101-380, 104 Stat. 484 (1990).

§22-22A-3. Exemption from liability.

1 (a) Notwithstanding any other provision of this code to
2 the contrary, a person engaged in removal activities is
3 not liable for removal costs or damages which result
4 from acts or omissions in the course of rendering care,
5 assistance or advice consistent with the national contin-
6 gency plan or as otherwise directed by the federal on-
7 scene coordinator or by the state official charged with
8 responsibility for oil discharge responses.

9 (b) Subsection (a) of this section does not apply:

10 (1) To a responsible party;

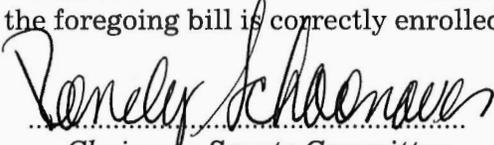
11 (2) With respect to personal injury or wrongful death;
12 or

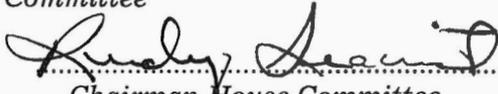
13 (3) If the person is grossly negligent or engages in
14 willful misconduct.

15 (c) A responsible party is liable for any removal costs
16 and damages that another person is relieved of under the
17 provisions of subsection (a) of this section.

18 (d) Nothing in this section affects the liability of a
19 responsible party for oil spill response under state law.

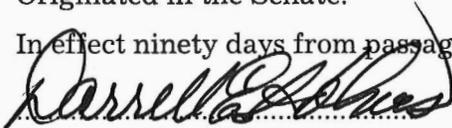
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee


.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

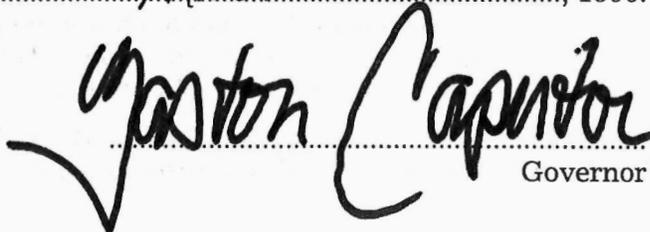

.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is approved*..... this the *20th*.....
day of *March*....., 1996.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/96

Time 2:52 pm