

58:10-23.11g1

LEGISLATIVE HISTORY CHECKLIST

NISA: 58:10-23.11 g1 (Hazardous waste site cleanup--limit liability of contractors & engineers)

LAWS OF: 1985

CHAPTER 461

BILL NO: S3206

Sponsor(s): Contillo, Dalton and Costa

Date Introduced: June 27, 1985

Committee: Assembly: -----

Senate: Energy and Environment

Amended during passage: Yes Substituted for A4317 (not attached since identical to S3206). Amendments during passage denoted by asterisks.

Date of Passage: Assembly: January 6, 1986

Senate: December 12, 1985

Date of Approval: January 15, 1986

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clipping--attached:

"Liability limits enacted for toxic cleanup firms, " 1-17-86. Star Ledger.

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CHAPTER 461 LAWS OF N. J. 1985
APPROVED 1-15-86

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SENATE, No. 3206

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1985

By Senators CONTILLO, DALTON and COSTA

Referred to Committee on Energy and Environment

AN ACT concerning the liability of certain persons performing hazardous discharge mitigation or cleanup services, and supplementing P. L. 1976, c. 141 (C. 58:10-23.11 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The provisions of P. L. 1976, c. 141 (C. 58:10-23.11 et seq.),
2 or any other law, rule or regulation to the contrary notwithstanding,
3 the liability of any person performing hazardous discharge miti-
4 gation or cleanup services in accordance with procedures estab-
5 lished pursuant to State or federal law for any injury to a person
6 or property caused by or related to these services shall be limited
7 to acts or omissions of the person during the course of performing
8 these services which can be shown, based on a preponderance of
9 the evidence, to have been negligent. For the purposes of this act,
10 the demonstration that acts or omissions of a person performing
11 mitigation or cleanup services were in accordance with generally
12 accepted practice and state-of-the-art scientific knowledge, and
13 utilized the best technology reasonably available to the person at
14 the time the mitigation or cleanup services were performed shall
15 create a rebuttable presumption that the acts or omissions were
16 not negligent.

1 2. This act shall take effect immediately **and shall apply to*
2 *contracts for hazardous discharge mitigation or cleanup services*
3 *entered into prior to the effective date of this act and still in*
4 *process on the effective date of this act and to contracts entered*
5 *into on the effective date of this act*.*

Matter printed in italics *this is new matter.*

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted December 5, 1985.

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14 the time the mitigation or cleanup services were performed shall
15 create a rebuttable presumption that the acts or omissions were
16 not negligent.

1 2. This act shall take effect immediately.

STATEMENT

This bill would limit the liability of contractors and engineers engaged in hazardous waste site cleanup activities for injuries related to these cleanup activities only to acts or omissions which

can be shown to have been negligent. Under current law, persons associated with a hazardous discharge, including contractors and engineers hired to cleanup or mitigate the discharge, are strictly liable, jointly and severally, without regard to fault, for all damages resulting from the discharge. This virtually unlimited liability has made it almost impossible for hazardous waste site cleanup contractors to obtain liability insurance for their work, which in turn is hampering the State's hazardous waste site cleanup program. By limiting the liability of hazardous waste site cleanup contractors only to their own acts or omissions which are negligent, this bill would make it possible for contractors to obtain liability insurance and thus continue their cleanup activities.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 3206

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 5, 1985

Senate Bill No. 3206 would limit the liability of persons engaged in hazardous waste site cleanup activities for injuries related to these cleanup activities only to acts or omissions which can be shown to have been negligent. Under the provisions of the New Jersey "Spill Compensation and Control Act," P. L. 1976, c. 141 (C. 58:10-23 et seq.), persons associated with a hazardous discharge, including contractors and engineers hired to cleanup or mitigate the discharge, are strictly liable, jointly and severally, without regard to fault, for all damages resulting from the discharge. This virtually unlimited liability has made it almost impossible for hazardous waste site cleanup contractors to obtain liability insurance for their work, which in turn is hampering the State's hazardous waste site cleanup program. By limiting the liability of hazardous waste site cleanup contractors only to their own acts or omissions which are negligent, this bill would make it possible for contractors to obtain liability insurance and thus continue their cleanup activities.

The committee amended Senate Bill No. 3206 to provide that the provisions of this bill would apply to contracts for hazardous discharge mitigation or cleanup services entered into on the effective date of this bill or before the effective date of this bill and in process on the effective date of this bill.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
Contact: PAUL WOLCOTT
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TRENTON, N.J. 08625
Release: THURS., JAN. 16, 1986

Governor Thomas H. Kean has signed legislation which is designed to ease the difficulties currently associated with obtaining liability insurance for projects involving the cleanup of hazardous or toxic wastes.

The bill, S-3206, was sponsored by State Senator Paul J. Contillo, D-Bergen. It amends the Spill Compensation and Control Act by changing the accountability of persons involved in hazardous waste cleanup from "strict liability" to negligence.

Under the old terms of the Spill Act, persons associated with a hazardous discharge, including contractors and engineers hired to clean up the discharge, were held strictly liable for any damage that resulted, regardless of whether the damage was in any way their fault.

Under the provisions of the new bill, liability would be determined by a finding of negligence, based on a preponderance of the evidence. The bill also stipulates that where it is demonstrated that the cleanup was done in accordance with generally accepted practices and state of the art scientific knowledge, and was performed using the best technology reasonably available, that such acts will not be judged to be negligent.

S-3206, Liability Insurance for Projects Involving Cleanup of Hazardous or
Toxic Wastes

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"This is important legislation, and it should allow us to move forward in attacking the hazardous waste problem in New Jersey," Kean said. "We cannot protect contractors if they are negligent, but they should not be penalized arbitrarily for events and effects which are clearly beyond their control when they have made a good faith effort to do their work in the best and safest way possible."

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