

58:10-23.11g3

LEGISLATIVE HISTORY CHECKLIST
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(Petroleum discharges--
limited liability)

NJSA: 58:10-23.11g3

LAWS OF: 1993 **CHAPTER:** 382

BILL NO: A1108

SPONSOR(S): Zecker and others

DATE INTRODUCED: March 23, 1992

COMMITTEE: **ASSEMBLY:** Energy and Hazardous Waste
SENATE: Environment

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint denoted by asterisks

DATE OF PASSAGE: **ASSEMBLY:** June 29, 1992 Re-enacted 12-16-93
SENATE: May 13, 1993 Re-enacted 1-10-94

DATE OF APPROVAL: January 11, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[SECOND REPRINT]
ASSEMBLY, No. 1108

STATE OF NEW JERSEY

INTRODUCED MARCH 23, 1992

By Assemblymen ZECKER, CATANIA and Zangari

1 AN ACT concerning the liability of certain persons for discharges
2 of petroleum into the waters and amending P.L.1991, c.260.

3

4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. Section 1 of P.L.1991, c.260 (C.58:10-23.11g3) is amended
7 to read as follows:

8 1. ¹a. ¹ Notwithstanding the provisions of P.L.1976, c.141
9 (C.58:10-23.11g) or any other law, including common law, to the
10 contrary, a person is not liable for any cleanup and removal costs
11 or damages of any kind, direct or indirect no matter by whom
12 sustained, which result from actions taken or not taken in the
13 course of rendering care, assistance, or advice with respect to
14 the discharge or threatened discharge of petroleum into the
15 State's surface waters where the care, assistance, or advice is
16 ¹[(1)]¹ consistent with ¹or pursuant to any of the following:

17 (1)¹ the federal National Contingency Plan prepared pursuant
18 to 33 U.S.C. §1321 ¹ [, [or] (2) pursuant to or consistent with] ;

19 (2)¹ a State contingency plan ¹ [, (3) pursuant to or consistent
20 with] ;

21 (3)¹ a State or federal vessel-specific contingency plan ¹ [, (4)
22 is otherwise directed by the] ;

23 (4) the direction of a ¹ federal on-scene coordinator or ¹ [by
24 the] ¹ an appropriate State official ¹ [, or (5) pursuant to or
25 consistent with the] ; or

26 (5) the emergency¹ request of a person ¹ who is attempting to
27 prevent the threatened discharge of petroleum from a vessel or
28 who is¹ otherwise liable for cleanup and removal costs of the
29 initial discharge from the vessel pursuant to subsection c. of
30 section 8 of P.L.1976, c.141 (C.58:10-23.11g) ², provided that a
31 person rendering care, assistance, or advice shall provide
32 notification of the threatened discharge or emergency, to the
33 extent actually known to such person, to the United States Coast
34 Guard or an appropriate federal or State official, as soon as
35 practicable (although not of necessity before rendering care,
36 assistance or advice) in the event such person is attempting to
37 unload petroleum from a vessel to prevent or mitigate a
38 discharge, or to tow, push, maneuver or otherwise physically
39 move a vessel transporting petroleum to end the emergency² .

40 ¹b. ¹ The defense from liability granted pursuant to
41 ¹subsection a. of¹ this section shall not apply (1) to a person
42 otherwise liable for cleanup and removal costs of the initial

EXPLANATION--Matter enclosed in bold-faced brackets [] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined through is new matter.

Matter enclosed in ¹ brackets but numerals has been adopted as follows:

¹ Assembly amendments adopted June 15, 1992.

Assembly amendments adopted in accordance with floor action.

Assembly amendments adopted in accordance with floor action.

1 discharge pursuant to subsection c. of section 8 of P.L.1976,
2 c.141 (C.58:10-23.11g), (2) with respect to personal injury or
3 wrongful death, or (3) if the person is grossly negligent or engages
4 in willful misconduct.

5 1c.¹ A person liable for the initial discharge or threat of
6 discharge pursuant to subsection c. of section 8 of P.L.1976,
7 c.141 (C.58:10-23.11g) is liable for any cleanup and removal costs
8 and damages that another person is relieved of under this section.

9 1d.¹ Nothing in this section shall limit other defenses or
10 immunities to liability that may exist in P.L.1976, c.141.

11 1e.¹ For the purposes of this section "petroleum" does not
12 include dredged spoil.

13 (cf: P.L.1991, c.260 s.1)

14 2. This act shall take effect immediately.

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19 Provides limited immunity, from liability for cleanup and removal
20 costs, to certain responders to petroleum discharges to water.

STATEMENT

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This bill expands the limited immunity provisions for oil spill responders.

Existing law provides immunity from any cleanup and removal costs, as well as from any other damages, for any person rendering care, assistance, or advice with respect to the discharge of petroleum into the State's surface waters where the actions taken were consistent with the federal Water Pollution Control Act's National Contingency Plan or are otherwise directed by a federal or State on-scene coordinator. This bill would provide for this immunity where the actions taken are consistent with a State contingency plan or a vessel-specific contingency plan or pursuant to a request of a responsible party.

Provides limited immunity, from liability for cleanup and removal costs, to certain responders to petroleum discharges to water.

ASSEMBLY ENERGY AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1108

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 1992

The Assembly Energy and Hazardous Waste Committee favorably reports Assembly Bill No. 1108, with Assembly committee amendments.

As amended, this bill expands the limited immunity provisions for oil spill responders. Existing law provides immunity from any cleanup and removal costs, as well as from any other damages, for any person rendering care, assistance, or advice with respect to the discharge of petroleum into the State's surface waters where the actions taken were consistent with the federal Water Pollution Control Act's National Contingency Plan or are otherwise directed by a federal or State on-scene coordinator. This bill would provide for this immunity where the actions taken are consistent with a State contingency plan or a vessel-specific contingency plan or pursuant to a request of a responsible party.

The committee amended the bill to make clear that the limited liability applies if the action is consistent with or pursuant to any one of the five contingencies listed in the bill. The bill is also amended to clarify that the limited immunity provided when a person responds to the request of a person otherwise liable under the Spill Act applies only in emergency situations and when the discharge or threatened discharge is from a vessel. Another amendment broadens the group of persons who can request assistance to include any person attempting to prevent the threatened discharge.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 1108

STATE OF NEW JERSEY

DATED: OCTOBER 22, 1992

The Senate Environment Committee reports Assembly Bill No. 1108 (1R) without recommendation.

This bill would expand the limited immunity provisions for oil spill responders to include those responders whose care, assistance, or advice is consistent with or pursuant to a State contingency plan, a State or federal vessel-specific contingency plan, or at the emergency request of a person who is attempting to prevent the threatened discharge of petroleum from a vessel or who is otherwise liable for the costs of the initial discharge from that vessel pursuant to the "Spill Compensation and Control Act."

Existing law, P.L.1991, c.260 (C.58:10-23.11g3), which amended and supplemented the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.), provides immunity from any cleanup and removal costs, as well as from any other damages, for any person rendering care, assistance, or advice with respect to the discharge of petroleum into the State's surface waters where the actions taken were consistent with the federal Water Pollution Control Act's National Contingency Plan or are otherwise directed by a federal or State on-scene coordinator.

Immunity does not apply to the person liable for the spill, to acts which constitute gross negligence or willful misconduct, or for personal injury or wrongful death.

The provisions of this bill are identical to those of Senate Bill No. 689(1R).

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

July 8, 1993

ASSEMBLY BILL NO. 1108
(First Reprint)

To the Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 1108 (First Reprint) with my recommendations for reconsideration.

I support the intent of this bill, which seeks to clarify and refine existing provisions of State law that set liability standards for persons responding to oil spills in our State's surface waters. Significantly, the bill would also extend certain limited immunities to towboat operators and other persons who are capable of responding to an emergency request for assistance from a vessel transporting petroleum products. These new provisions are designed to ensure that tugboats and other vessels that ply New Jersey's coastal waters each day will be willing to apply their considerable knowhow and utilize their equipment for the benefit of oil tankers and barges that require prompt emergency assistance.

While I support most of the provisions in this bill, I would nonetheless propose a single amendment that would require a vessel responding to a threatened discharge or maritime emergency to provide notification to the United States Coast Guard or another appropriate federal or State agency in the event the rescuing vessel is taking certain major actions to aid the stricken vessel. More specifically, notification would be required where the rescuing party attempts to either unload petroleum products from the distressed vessel or tow, push or otherwise physically move the vessel to safety as a means to end the maritime emergency. This proposed notification procedure would ensure that officers of the United States Coast Guard or other appropriate government officials can obtain knowledge of a major maritime emergency and thereby mobilize an effective rescue and oil spill response operation at the earliest possible time.

For these reasons, I herewith return Assembly Bill No. 1108 (First Reprint) and recommend that it be amended as follows:

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Page 1, Section 1, Line 30 :

After "(C.58:10-25.11g)" insert
", provided that a person
rendering care, assistance, or
advice shall provide notification
of the threatened discharge or
emergency, to the extent actually
known to such person, to the
United States Coast Guard or an
appropriate federal or State
official, as soon as practicable
(although not of necessity before
rendering care, assistance or
advice) in the event such person
is attempting to unload petroleum
from a vessel to prevent or
mitigate a discharge, or to tow,
push, maneuver or otherwise
physically move a vessel
transporting petroleum to end the
emergency"

Respectfully,

/s/ James J. Florio

GOVERNOR

[seal]

Attest:

/s/ William Harla

Deputy Chief Counsel to the Governor