

58:10-23.11g

LEGISLATIVE HISTORY CHECKLIST
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(Petroleum spills-
immunity from
liability)

LAWS OF: 1991

CHAPTER: 260

Bill No: A4752

Sponsor(s): Deverin, Collins & Villapiano

Date Introduced: April 22, 1991

Committee: Assembly: Energy & Environment

Senate: Environmental Quality

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: May 9, 1991

Senate: June 27, 1991

Date of Approval: August 13, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

[FIRST REPRINT]
ASSEMBLY, No. 4752

STATE OF NEW JERSEY

INTRODUCED APRIL 22, 1991

By Assemblymen DEVERIN, COLLINS and Villapiano

1 AN ACT concerning the liability of certain persons for discharges
2 of petroleum into the waters and supplementing P.L.1976,
3 c.141 (C.58:23.11 et seq.).
4

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

7 1. Notwithstanding the provisions of P.L.1976, c.141
8 (C.58:10-23.11g) or any other law, including common law, to the
9 contrary, a person is not liable for any cleanup and removal costs
10 or damages of any kind, direct or indirect no matter by whom
11 sustained, which result from actions taken or not taken in the
12 course of rendering care, assistance, or advice with respect to
13 the discharge or threatened discharge of petroleum into ¹[surface
14 or ground] the State's surface¹ waters where the care,
15 assistance, or advice is consistent with the federal National
16 Contingency Plan prepared pursuant to 33 U.S.C. §1321, or is
17 otherwise directed by the federal on-scene coordinator or by the
18 appropriate State official. The defense from liability granted
19 pursuant to this section shall not apply (1) to a person otherwise
20 liable for cleanup and removal costs of the initial discharge
21 pursuant to subsection c. of section 8 of P.L. 1976, c.141
22 (C.58:10-23.11g), (2) with respect to personal injury or wrongful
23 death, or (3) if the person is grossly negligent or engages in
24 willful misconduct. A person liable for the initial discharge or
25 threat of discharge pursuant to subsection c. of section 8 of P.L.
26 1976, c.141 (C.58:10-23.11g) is liable for any ¹cleanup and¹
27 removal costs and damages that another person is relieved of
28 under this section. Nothing in this section shall limit other
29 defenses or immunities to liability that may exist in P.L. 1976,
30 c.141.

31 ¹For the purposes of this section "petroleum" does not include
32 dredged spoil.¹

33 2. This act shall take effect immediately.
34
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36 ENVIRONMENT
37

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows

¹ Assembly AEE committee amendments adopted April 29, 1991.

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2 of petroleum into the waters and supplementing P.L.1976,
3 c.141 (C.58:23.11 et seq.).
4

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

7 1. Notwithstanding the provisions of P.L.1976, c.141
8 (C.58:10-23.11g) or any other law, including common law, to the
9 contrary, a person is not liable for any cleanup and removal costs
10 or damages of any kind, direct or indirect no matter by whom
11 sustained, which result from actions taken or not taken in the
12 course of rendering care, assistance, or advice with respect to
13 the discharge or threatened discharge of petroleum into surface
14 or ground waters where the care, assistance, or advice is
15 consistent with the federal National Contingency Plan prepared
16 pursuant to 33 U.S.C. §1321, or is otherwise directed by the
17 federal on-scene coordinator or by the appropriate State
18 official. The defense from liability granted pursuant to this
19 section shall not apply (1) to a person otherwise liable for cleanup
20 and removal costs of the initial discharge pursuant to subsection
21 c. of section 8 of P.L. 1976, c.141 (C.58:10-23.11g), (2) with
22 respect to personal injury or wrongful death, or (3) if the person
23 is grossly negligent or engages in willful misconduct. A person
24 liable for the initial discharge or threat of discharge pursuant to
25 subsection c. of section 8 of P.L. 1976. c.141 (C.58:10-23.11g) is
26 liable for any removal costs and damages that another person is
27 relieved of under this section. Nothing in this section shall limit
28 other defenses or immunities to liability that may exist in P.L.
29 1976, c.141.

30 2. This act shall take effect immediately.
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33 STATEMENT
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35 This bill would make New Jersey law consistent with the
36 federal Oil Spill Act of 1990 that provides limited immunity from
37 liability for cleanup and removal costs for those persons
38 responding to an oil spill. The immunity applies if those
39 activities are performed in a manner consistent with the federal
40 National Contingency Plan or under the direction of the federal
41 on-scene coordinator or appropriate State official. Because the
42 plans and orders may not cover every detail or eventuality of a

43 spill response, actions that are in keeping with the overall
44 objectives of the plan or coordinator's orders are deemed to be
45 within the scope of the bill.

46 The immunity does not apply to third party suits for personal
47 injury or death, to acts of gross negligence or willful conduct, or
48 if the person is otherwise liable pursuant to the New Jersey Spill
49 Compensation and Control Act. Moreover, the initial spiller or
50 responsible party will remain liable to the injured party for any
51 liabilities for which the responder is immune.

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ENVIRONMENT

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

ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4752

with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 29, 1991

The Assembly Energy and Environment Committee favorably reports Assembly Bill No. 4752 with committee amendments.

As amended, Assembly Bill No. 4752 provides limited immunity for oil spill responders. This immunity provision is similar to the one contained in the federal "Oil Pollution Act of 1990."

This bill 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. Immunity is only available 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.

No immunity is provided if the person is otherwise liable for the discharge under the State's "Spill Compensation and Control Act," for personal injury or wrongful death damages, or where the discharge was the result of gross negligence or willful misconduct. The bill further provides that the initial discharger is liable for any of the damages for which the responder is relieved of under this bill.

The committee amended the bill to limit the immunity provisions to discharges to surface waters and would exempt dredged spoils from the definition of petroleum for the purposes of the immunity provision in the bill. These changes make the immunity provisions more closely related to the federal act.

SENATE ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 4752

STATE OF NEW JERSEY

DATED: JUNE 17, 1991

The Senate Environmental Quality Committee favorably reports Assembly Bill No. 4752 (1R).

Assembly Bill No. 4752 (1R) provides limited immunity for oil spill responders. This immunity provision is similar to the one contained in the federal "Oil Pollution Act of 1990."

This bill 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. Immunity is only available 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.

No immunity is provided if the person is otherwise liable for the discharge under the State's "Spill Compensation and Control Act," for personal injury or wrongful death damages, or where the discharge was the result of gross negligence or willful misconduct. The bill further provides that the initial discharger is liable for any of the damages for which the responder is relieved of under this bill.

The limited immunity provisions are limited to discharges to surface waters. Dredged spoils is exempted from the definition of petroleum for the purposes of the immunity provision in the bill.

Because the "Spill Compensation and Control Act" already contains an immunity provision for responders, as well as other defenses to liability, the bill provides that the provisions in the bill are not to limit those other immunities or defenses. Thus, a responder to a petroleum discharge may claim the immunity provisions of this bill, the existing immunity provisions, as well as any other defense to liability provided in the "Spill Compensation and Control Act."

Assembly Bill No. 4752 (1R) is identical to Senate Bill No. 3388 released by this committee on May 13, 1991.