HLS 19RS-638 REENGROSSED

2019 Regular Session

HOUSE BILL NO. 290

BY REPRESENTATIVE PUGH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES: Provides relative to shippers of hazardous material

1 AN ACT

2 To amend and reenact R.S. 32:1519(A), (B), and (C)(1) and to enact R.S. 32:1519(D) and

3 (E)(6), relative to shippers of hazardous material; to require any person who ships

4 hazardous material be held responsible for remedial action taken as a result of any

discharge or disposal; to provide for exceptions; to provide for a definition; and to

6 provide for related matters.

undertaken.

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Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:1519(A), (B), and (C)(1) are hereby amended and reenacted and

R.S. 32:1519(D) and (E)(6) are hereby enacted to read as follows:

§1519. Reimbursement of remedial costs

A. Any person who has transported <u>or shipped</u> a hazardous material as defined in this Chapter, a hazardous substance as defined in R.S. 30:2272(4), or a hazardous waste as defined in R.S. 30:2173 shall be liable to the state for undertaking remedial action or for all costs of remedial actions taken in cleaning up any discharge or disposal at a pollution source or facility if it can be shown that the hazardous material, hazardous substance, or hazardous waste was discharged or disposed of directly by the transporter <u>or shipper</u> and <u>either</u> the transporter <u>or shipper</u> directly caused the discharge or disposal for which remedial action must be

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2	or disposal of a hazardous material, hazardous substance, or hazardous waste at a
3	pollution source or facility to take any remedial actions necessary to contain, abate,
4	cleanup, restore, or remove the discharge or disposal.
5	(2) When the secretary must file suit against a transporter or shipper to
6	recover remedial costs or to obtain remedial action, the court shall also award to the
7	state a penalty of twenty-five percent of the amount determined to be remedial costs.
8	C.(1) When the secretary orders one transporter or shipper to undertake
9	remedial action and other transporters, or persons, or shippers have caused or
10	contributed to the discharge or disposal, the transporter or shipper undertaking
11	remedial action may sue for reimbursement from any other transporter, or person,
12	or shipper for the costs of remedial actions attributable to that transporter or person.
13	* * *
14	D.(1) The shipper of any hazardous material, substance, or waste shall not
15	be considered to have caused or contributed to any discharge or disposal during
16	transport to the extent that the discharge or disposal resulted from circumstances or
17	conditions beyond his control.
18	(2) A shipper's payment of remedial costs or performance of any remedial
19	action pursuant to this Section shall not be determinative of fault or liability in any
20	matter, including any suit for reimbursement pursuant to Subsection C of this
21	Section.
22	D. E. As used in this Section, the following terms shall have the following
23	meanings:
24	* * *
25	(6) "Shipper" means a person, partnership, association, or corporation who
26	tenders hazardous materials, hazardous substances, or hazardous waste to a motor
27	carrier, railway, or driver of a commercial motor vehicle for transportation in
28	interstate or intrastate commerce, or by sea, rail, or air.

B.(1) The secretary may order any transporter or shipper causing a discharge

## **DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 290 Reengrossed

2019 Regular Session

Pugh

**Abstract:** Requires a shipper of hazardous materials be held accountable for remedial actions taken in cleaning up any discharge or disposal of hazardous materials. Defines the term "shipper".

<u>Present law</u> holds any person who has transported a hazardous material, hazardous substance, or a hazardous waste liable to the state for costs of remedial action taken in cleaning up any discharge or disposal at a pollution source or facility if the transporter directly caused the discharge or disposal.

<u>Proposed law</u> extends <u>present law</u> to apply to shippers if the shipper directly causes the discharge or disposal.

<u>Present law</u> authorizes the secretary to order any transporter causing a discharge or disposal of a hazardous material, hazardous substance, or hazardous waste to take any remedial actions necessary to contain, abate, cleanup, restore, or remove the discharge or disposal.

Proposed law extends present law to apply to shippers.

<u>Present law</u> requires the transporter, by court order, to pay a penalty of 25% of the amount determined to be remedial costs when the state has to sue the transporter to recover remedial costs or obtain remedial action.

Proposed law extends present law to apply to shippers.

<u>Present law</u> allows a transporter undertaking remedial action for discharge or disposal caused by or contributed to by other transporters or persons to bring suit against any other transporter or person for the costs of remedial actions attributable to that transporter or person.

<u>Proposed law</u> extends <u>present law</u> to apply to shippers if a shipper is undertaking remedial action for discharge or disposal caused by or contributed to by a transporter, person, or other shipper.

<u>Proposed law</u> exempts a shipper of any hazardous material, substance, or waste as a responsible party to any discharge or disposal during transport to the extent the discharge or disposal resulted from circumstances or conditions beyond his control.

<u>Proposed law</u> prevents a shipper's payment of remedial costs or performance of any remedial action pursuant to <u>present law</u> to be determinative of fault or liability in any matter provided for in <u>present law</u>, including any suit for reimbursement pursuant to <u>present law</u>.

<u>Proposed law</u> defines "shipper" as a person, partnership, association, or corporation who tenders hazardous materials, hazardous substances, or hazardous waste to a motor carrier, railway, or driver of a commercial motor vehicle for transportation in interstate or intrastate commerce, or by sea, railway, or air.

(Amends R.S. 32:1519(A), (B), and (C)(1); Adds R.S. 32:1519(D) and (E)(6))

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## Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Transportation</u>, <u>Highways and Public Works</u> to the <u>original bill</u>:

- 1. Make technical changes.
- 2. Clarify that a shipper of any hazardous material, substance, or waste is exempt from being considered to have caused or contributed to any discharge or disposal during transport if the discharge or disposal resulted from circumstances or conditions beyond his control.
- 3. Add railway as an entity that may receive and transport hazardous materials, substances, or waste, and add rail as a mode of transportation that may be used to transport hazardous materials, substances, or waste.

## The House Floor Amendments to the engrossed bill:

- 1. Make a technical change.
- 2. Clarify that a shipper of any hazardous material, substance, or waste is exempt from being considered to have caused or contributed to any discharge or disposal during transport to the extent the discharge or disposal resulted from circumstances or conditions beyond his control.
- 3. Prevent a shipper's payment of remedial costs or performance of any remedial action pursuant to <u>present law</u> to be determinative of fault or liability in any matter provided for in <u>present law</u>, including any suit for reimbursement pursuant to present law.