

2010 -- H 8120

LC02581

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO HEALTH AND SAFETY -- HAZARDOUS WASTE CLEANUP

Introduced By: Representatives Walsh, Azzinaro, Driver, and Kennedy

Date Introduced: May 12, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-19.8-2, 23-19.8-3 and 23-19.8-4 of the General Laws in
2 Chapter 23-19.8 entitled "Hazardous Waste Cleanup" are hereby amended to read as follows:

3 **23-19.8-2. Definitions.** -- As used in this chapter: (1) "Discharge" includes, but is not
4 limited to, ~~leakage and seepage~~ any emission, other than natural seepage, intentional or
5 unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting,
6 emptying or dumping.

7 (2) "Hazardous materials" include all materials and substances which are now or
8 hereafter designated as hazardous by any state or federal law or by the regulations of any state or
9 federal government agency.

10 (3) "Person" includes ~~any individual, partnership, corporation, association, or any other~~
11 ~~entity~~ an individual, trust, firm, joint stock company, corporation (including a government
12 corporation), partnership, association, the federal government or any agency or subdivision
13 thereof, a state, municipality, commission, political subdivision of a state, or any interstate body.

14 (4) "Oil" means oil of any kind and in any form, whether crude, refined, or a petroleum
15 by product, including, but not limited to, petroleum, fuel oil, gasoline, lubricating oils, oily
16 sludge, oil refuse, oil mixed with other wastes, crude oils, liquified natural gas, propane, butane,
17 or other liquid hydrocarbons regardless of specific gravity.

18 **23-19.8-3. Exemption from liability.**-- (a) Notwithstanding any provision of law to the
19 contrary, no qualified or trained person who provides assistance or advice in mitigating the

1 effects of an accidental or threatened discharge of hazardous materials, or in preventing, cleaning
2 up, or disposing of the discharge, shall be subject to civil liabilities or penalties of any type when
3 responding voluntarily and at the request of:

- 4 (1) A governmental agency;
 - 5 (2) The person responsible for any discharge;
 - 6 (3) The person responsible for preventing, cleaning up, or disposing of any discharge; or
 - 7 (4) The agent or authorized representative of any federal and/or state agency or person;
- 8 ~~provides assistance or advice in mitigating the effects of an accidental or threatened discharge of~~
9 ~~hazardous materials, or in preventing, cleaning up, or disposing of the discharge, shall be subject~~
10 ~~to civil liabilities or penalties of any type.~~

11 (b) The exemption set forth in this section shall apply to oil spill pollution prevention
12 activities and/or activities dedicated to the containment, clean up or abatement of hazardous
13 materials.

14 (c) The exemptions to liabilities set forth in this section shall apply to any city or town
15 fire department, fire district, volunteer fire association or their hazardous materials and/or
16 decontamination teams or representatives from the Rhode Island department of environmental
17 management.

18 (d) The exemptions from liability provided by this subsection shall not apply if the person
19 is grossly negligent or engages in willful misconduct as further defined in section 23-19.8-6.

20 **23-19.8-4. Exemptions to immunities.** -- The immunities provided in 23-19.8-3 shall not
21 apply to the responsible party or to any vendor of a responsible party. For the purpose of this
22 section, "vendor" means any individual, trust, firm, corporation, partnership, or association that
23 offers oil mitigation services, containment services, clean up activities or oil spill pollution
24 prevention programs for sale to the public. ~~any person who:—~~

- 25 ~~(1) Is under a legal duty to respond to the incident.—~~
- 26 ~~(2) Receives compensation, other than reimbursement for out-of-pocket expenses, for its~~
27 ~~services in rendering assistance or advice.~~

28 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would exempt from liability a person who in the normal course of government
2 duties provides assistance or services in mitigating hazardous discharge, to further include local
3 fire departments, districts and representatives of the Rhode Island department of environmental
4 management. The act would not provide immunity to individuals who are under a legal duty or
5 contract to provide services to the responsible party.

6 This act would take effect upon passage.

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