

State of Wisconsin



1995 Assembly Bill 552

Date of enactment: April 3, 1996
Date of publication*: April 17, 1996

1995 WISCONSIN ACT 192

AN ACT to create 895.55 of the statutes; relating to: granting civil immunity for responses to an oil discharge.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 895.55 of the statutes is created to read:
895.55 Liability exemption; oil discharge control.

(1) In this section:

(a) "Damages" means those damages specified in 33 USC 2702 (b) (2) and includes the cost of assessing those damages.

(b) "Discharge" means, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(c) "Federal on-scene coordinator" means the federal official designated by the federal environmental protection agency or the U.S. coast guard to coordinate and direct responses under the national contingency plan.

(d) "National contingency plan" means the plan prepared and published under 33 USC 1321 (d).

(e) "Oil" means petroleum, hydrocarbon, vegetable or mineral oil of any kind or in any form and includes oil mixed with wastes other than dredged spoil.

(f) "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(g) "Removal" means the containment and elimination of oil from water, shorelines and beaches or the taking of other actions, including disposal, as may be necessary to minimize or mitigate damages to public health

and welfare, including to fish, shellfish, wildlife and public or private property, shorelines and beaches.

(h) "Removal costs" means the costs of removal that are incurred after an oil discharge occurs or, if there is a substantial threat of an oil discharge, the costs to prevent, minimize or mitigate an oil discharge.

(i) "State contingency plan" means the plan prepared and published under s. 144.76 (5).

(2) Notwithstanding any provision of ch. 29, subchs. II and IV of ch. 30, subchs. II, IV, VI and VII of ch. 144, ch. 147 or 166, or any other provision of this chapter, a person is immune from liability for damages resulting from the person's acts or omissions and for the removal costs resulting from the person's acts or omissions if all of the following conditions are met:

(a) Those acts or omissions were taken while rendering assistance, advice or care related to the threat of an oil discharge into the navigable waters of this state or related to the removal of oil resulting from an oil discharge into the navigable waters of this state.

(b) The assistance, advice or care was consistent with the national contingency plan or the state contingency plan or was otherwise directed by the federal on-scene coordinator or the secretary of natural resources.

(3) The immunity under sub. (2) does not extend to any person:

(a) Who is required to act under s. 144.76 (3) because the person possessed or controlled the oil that was initially discharged into the navigable waters of this state or

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

caused the initial discharge or initial threat of discharge of the oil into the navigable waters of this state.

(b) Whose act or omission involves gross negligence or reckless, wanton or intentional misconduct.

(c) Who causes personal injury or wrongful death.

(4) A person under sub. (3) (a) is liable for any damages or removal costs that another person is immune from under sub. (2).

(5) Nothing in this section affects the responsibility of a person under sub. (3) (a) to fulfill that person's requirements under s. 144.76.

SECTION 2. Initial applicability.

(1) This act first applies to acts or omissions occurring on the effective date of this subsection.
