



1995 ASSEMBLY BILL 552

September 6, 1995 - Introduced by Representatives DUFF and JOHNSRUD, cosponsored by Senator HUELSMAN, by request of Governor Tommy G. Thompson. Referred to Committee on Environment and Utilities.

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

Analysis by the Legislative Reference Bureau

This bill creates an immunity from civil liability for a person's acts or omissions in responding to a discharge of oil into the waters of this state or a threat of a discharge if the person is responding at the direction of a federal on-scene coordinator or the secretary of natural resources or in a manner that is consistent with the state or federal contingency plan. The immunity created in this bill does not apply to personal injury or wrongful death or to a person who possesses or controls the oil which is discharged, who causes the discharge of the oil or whose act or omission involves gross negligence or reckless, wanton or intentional misconduct. Under the bill, the person who possessed or controlled the discharged oil is liable for the damages and removal costs that other persons are granted immunity from paying.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

3 **SECTION 1.** 895.55 of the statutes is created to read:
4 **895.55 Liability exemption; oil discharge control.** (1) In this section:
5 (a) "Damages" means any kind of damages from, arising out of or related to the
6 discharge or threatened discharge of oil that results in liability under the laws of this
7 state.

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

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

6 (d) "National contingency plan" means the plan prepared and published under
7 33 USC 1321 (d).

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

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

13 (g) "Removal" means the containment and elimination of oil from water,
14 shorelines and beaches or the taking of other actions, including disposal, as may be
15 necessary to minimize or mitigate damages to public health and welfare, including
16 to fish, shellfish, wildlife and public or private property, shorelines and beaches.

17 (h) "Removal costs" means the costs of removal that are incurred after an oil
18 discharge occurs or, if there is a substantial threat of an oil discharge, the costs to
19 prevent, minimize or mitigate oil pollution resulting from such an incident.

20 (i) "State contingency plan" means the plan prepared and published under s.
21 144.76 (5).

22 **(2)** A person is immune from civil liability for acts or omissions taken in the
23 course of rendering assistance, advice or care related to the threat of an oil discharge
24 into waters of this state, or related to the removal of oil pollution resulting from an
25 oil discharge into waters of this state if the assistance, advice or care was consistent

1 with the national contingency plan or the state contingency plan or was otherwise
2 directed by the federal on-scene coordinator or the secretary of natural resources.

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

4 (a) Who is required to act under s. 144.76 (3) because the person possessed or
5 controlled the oil that was initially discharged into waters of this state or caused the
6 initial discharge or initial threat of discharge of the oil into waters of this state.

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

9 (c) Who causes personal injury or wrongful death.

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

12 **SECTION 2. Initial applicability.**

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

15 **(END)**