

38 §552. LIABILITY

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1. Licensee shall be liable. A licensee shall be liable for all acts and omissions of its servants and agents, and carriers destined for the licensee's facilities from the time such carrier shall enter state waters until such time as the carrier shall leave state waters.

[1969, c. 572, §1 (NEW) .]

2. State need not plead or prove negligence. The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages and the proliferation of 3rd-party claims. Accordingly, any person, vessel, licensee, agent or servant, including a carrier destined for or leaving a licensee's facility while within state waters, who permits or suffers a prohibited discharge or other polluting condition to take place is liable to the State for all disbursements made by it pursuant to section 551, subsection 5, paragraphs B, D, E, H and I, or other damage incurred by the State, including damage for injury to, destruction of, loss of, or loss of use of natural resources, the reasonable costs of assessing natural resources damage and the costs of preparing and implementing a natural resources restoration plan. In any suit to enforce claims of the State under this section, to establish liability, it is not necessary for the State to plead or prove negligence in any form or manner on the part of the person causing or suffering the discharge or licensee responsible for the discharge. The State need only plead and prove the fact of the prohibited discharge or other polluting condition and that the discharge occurred at facilities under the control of the licensee or was attributable to carriers or others for whom the licensee is responsible as provided in this subchapter or occurred at or involved any real property, structure, equipment or conveyance under the custody or control of the person causing or suffering the discharge.

[2009, c. 121, §8 (AMD) .]

3. Right of recovery by licensee. Any licensee that is held liable for the acts or omissions of any carrier destined for the licensee's facilities pursuant to subsection 1 may recover in a civil action from the carrier, or any person responsible for the acts or omissions of the carrier, all loss, expense, damage or other liability incurred by the licensee for the acts and omissions of the carrier.

[1991, c. 380, §2 (NEW) .]

4. Limited liability for responders. Notwithstanding any other provision of law, the liability of a responder to a discharge or a substantial threat of a discharge of oil into or upon any coastal waters, estuaries, tidal flats, tidal waters, beaches and lands adjoining the seacoast of the State is governed by this section.

A. A responder is not liable for removal costs, damages, civil liabilities or penalties that result from actions taken or omitted in the course of rendering care, assistance or advice consistent with the National Contingency Plan, a federal contingency plan, the State Marine Oil Spill Contingency Plan or as otherwise directed by the federal on-scene coordinator or the commissioner. [1991, c. 380, §2 (NEW) .]

B. Paragraph A does not apply:

- (1) To personal injury or wrongful death;
- (2) If the responder is grossly negligent or engages in willful misconduct; or
- (3) To a responsible party. [1997, c. 364, §31 (AMD) .]

C. A responsible party is liable for any removal costs, damages, civil liabilities and penalties that a responder is relieved of under paragraph A. [1991, c. 380, §2 (NEW).]

[1997, c. 364, §31 (AMD) .]

SECTION HISTORY

1969, c. 572, §1 (NEW). 1977, c. 375, §17 (AMD). 1985, c. 746, §23 (AMD). 1991, c. 380, §2 (AMD). 1991, c. 698, §13 (AMD). 1997, c. 364, §§30,31 (AMD). 2009, c. 121, §8 (AMD).

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