

	L.D. 74
2	(Filing No. H-360)
4	
	en e
6	STATE OF MAINE
8	HOUSE OF REPRESENTATIVES 115TH LEGISLATURE
10	FIRST REGULAR SESSION
12	COMMITTEE AMENDMENT "A" to H.P. 53, L.D. 74, Bill, "An Act
14	Regarding Liability for Persons Responding to Oil Spills"
16	Amend the bill in section 1 by striking out all of subsection 9-B (page 1, lines 27 to 29 in L.D.) and inserting in
18	its place the following:
20	' <u>9-B. State Marine Oil Spill Contingency Plan. "State</u> Marine Oil Spill Contingency Plan" means a contingency plan for
22	oil spill response prepared by the commissioner in accordance with this subchapter.'
24	<u></u>
26	Further amend the bill in section 2 by striking out all of subsection 4 and inserting in its place the following:
. 28	' <u>4. Limited liability for responders. Notwithstanding any other provision of law, the liability of a responder to a</u>
30	discharge or a substantial threat of a discharge of oil into or upon any coastal waters, estuaries, tidal flats, tidal waters,
32	beaches and lands adjoining the seacoast of the State is governed by this section.
34	
36	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
38	or advice consistent with the National Contingency Plan, a federal contingency plan, the State Marine Oil Spill
40	Contingency Plan or as otherwise directed by the federal
42	<u>on-scene coordinator or the commissioner.</u>
	B. Paragraph A does not apply:
44	(1) To personal injury or wrongful death;
46	

Page 1-LR0360(2)

.

COMMITTEE AMENDMENT " β " to H.P. 53, L.D. 74

(2) If the responder is grossly negligent or engages in willful misconduct; or

(3) To a responsible party. For the purposes of this subsection, "responsible party" means any person who caused or is otherwise responsible for the discharge or threatened discharge with respect to which the responder's actions are taken or omissions occur.

C. A responsible party is liable for any removal costs, damages, civil liabilities and penalties that a responder is relieved of under paragraph A.'

STATEMENT OF FACT

This amendment brings that portion of the bill dealing with limited immunity for responders into conformity with the federal 18 law governing that immunity. It deviates from the federal law by extending responder immunity to cover civil liabilities and 20 penalties. This amendment ensures that someone is responsible for all damages incurred by making any damages for which a 22 responder may otherwise be liable the liability of the 24 responsible party. The immunity extends only to discharges or threats of discharges of oil into or upon any coastal waters, estuaries, tidal flats, tidal waters, beaches and lands adjoining 26 the seacoast of the State, not all discharges prohibited by the Maine Revised Statutes, Title 38, section 543. 28

30 The original bill referred to immunity for volunteer responders under the hazardous materials law. That law applies 32 to waste oil, but not necessarily to oil in general. This amendment deletes the reference to that chapter. No immunity or limitation of liability is lost, however, because this amendment 34 applies to all responders to oil spills, regardless of whether they are compensated. 36

38 This amendment adds a definition of "responsible party" that applies only to the liability section.

Reported by the Committee on Judiciary Reproduced and distributed under the direction of the Clerk of the House (5/20/91)

(Filing No. H-360)

Page 2-LR0360(2)

14

16

2

4

6

8

10

12