

[Senate, October 31, 1991 — Substituted by amendment by the Senate (MacLean) as a new text of Senate, No. 1495, providing federal responder immunity for marine oil releases.]

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Ninety-One.

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1 SECTION 1. Section 2 of chapter 21E as so appearing is  
2 hereby amended by striking out in line 1, the word “section” and  
3 inserting in place thereof the following word: — chapter.

1 SECTION 2. Section 2 of chapter 21E of the General Laws,  
2 as appearing in the 1990 Official Edition, is hereby amended by  
3 inserting after the definition of “Imminent Hazard” the following  
4 definition: —

5 “Offshore oil facility”, any oil facility of any kind located in,  
6 on, or under any submerged land within the jurisdiction of the  
7 commonwealth including, without limitation, the territorial sea;  
8 provided, however, that it shall not include a vessel.

1 SECTION 3. Section 2 of said chapter 21E, as so appearing,  
2 is hereby amended by inserting after the definition of “Oil” the  
3 following three definitions: —

4 “Oil facility”, any structure, group of structures, equipment, or  
5 device, including a public vessel but not including any other type  
6 of vessel, that is used for one or more of the following purposes:  
7 exploring for, drilling for, producing, storing, handling,  
8 transferring, processing, or transporting oil. The term shall  
9 include, without limitation, any motor vehicle, rolling stock, or  
10 pipeline used for one or more of the purposes set forth in the  
11 preceding sentence.

12 “Oil Pollution Act”, the Oil Pollution Act of 1990, P.L. 101-  
13 380.

14 “Onshore oil facility”, any oil facility of any kind located in,  
15 on, or under any land within the jurisdiction of the commonwealth  
16 other than submerged land. The term shall include, without  
17 limitation, motor vehicles and rolling stock.

1 SECTION 4. Said Section 2 of said Chapter 21E, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “site”, in line 83, the following words: —  
4 vessel, onshore oil facility, offshore oil facility, deepwater port,  
5 or pipeline, any person who owned, operated, or otherwise  
6 controlled activities at such site immediately prior to such  
7 abandonment, except that, in the case of an onshore oil facility  
8 or offshore oil facility, the term shall not include an agency or  
9 political subdivision of the federal government or the common-  
10 wealth, or any state or public corporation or authority, or any  
11 interstate body, that owned an onshore oil facility or offshore oil  
12 facility and that, as the owner, transferred possession and right  
13 to operate the onshore oil facility or offshore oil facility to another  
14 person by lease, assignment, or permit.

1 SECTION 5. Said Section 2 of said Chapter 21E, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “abandonment”, in line 84, the following words: —  
4 and (4) in the case of an onshore oil facility, other than a  
5 pipeline, any person owning or operating the onshore oil facility,  
6 except that the term shall not include an agency or political  
7 subdivision of the federal government or the commonwealth, or  
8 any state or body, that owns an onshore oil facility and that, as  
9 the owner, transfers possession and right to operate the onshore  
10 oil facility to another person by lease, assignment, or permit, (5)  
11 in the case of an offshore oil facility, other than a pipeline or a  
12 deepwater port licensed under the U.S. Deepwater Port Act of  
13 1974, the lessee or permittee of the area in which the offshore oil  
14 facility is located or the holder of a right of use and easement  
15 granted under an applicable law of the commonwealth or the U.S.  
16 Outer Continental Shelf Lands Act, for the area in which the  
17 offshore oil facility is located if such holder is a different person  
18 than the lessee or permittee, except that the term shall not include  
19 an agency or political subdivision of the federal government or  
20 the commonwealth, or any state or public corporation or  
21 authority, or any interstate body, that owns an offshore oil facility  
22 and that, as the owner, transfers possession and right to operate  
23 the offshore oil facility to another person by lease, assignment,  
24 or permit, (6) in the case of a deepwater port licensed under the

25 U.S. Deepwater Port Act of 1974, the licensee, and (7) in the case  
26 of a pipeline, any person owning or operating the pipeline.

1 SECTION 6. Said Section 2 of said chapter 21E, as so  
2 appearing, is hereby further amended by striking out, in line 81  
3 the word "and".

1 SECTION 7. Said Section 2 of said chapter 21E, as so  
2 appearing, is hereby further amended by inserting after the words  
3 "authority" in line 89, the following words: — any interstate body,  
4 foreign nation.

1 SECTION 8. Said Section 2 of said chapter 21E, as so  
2 appearing, is hereby further amended by inserting after the  
3 definition of "Priority disposal site" the following definition: —  
4 "Public Vessel", a vessel of any kind that is owned, or a bareboat  
5 that is chartered and operated, by the United States, or by a state  
6 or political subdivision thereof, or by a foreign nation, except  
7 when such vessel is engaged in commerce.

1 SECTION 9. Section 3 of said chapter 21E, as so appearing,  
2 is hereby amended by inserting after the word "laws" in line 3 the  
3 following words: — including the Oil Pollution Act.

1 SECTION 10. Section 4 of said chapter 21E, as so appearing,  
2 is hereby amended by adding the following paragraph: —  
3 Any person, except a person who is liable pursuant to clause  
4 (1) of paragraph (a) of section five, who provides care, assistance  
5 or advice in response to a release or threat of release of oil into  
6 or on to the waters of the United States including without  
7 limitation the territorial sea, or to any shorelines adjoining any  
8 waters of the United States, or to the zone established by  
9 presidential proclamation numbered 5030 dated March 10, 1983,  
10 including without limitation, the ocean waters of the areas referred  
11 to as "eastern special areas" in Article 3 (1) of the Agreement  
12 between the United States of America and the Union of Soviet  
13 Socialist Republics on the Maritime Boundary, signed June 1,  
14 1990, and said care, assistance or advice is consistent with this  
15 chapter, or the Massachusetts contingency plan, or the national  
16 contingency plan; or with applicable state laws and regulations,

17 or applicable federal laws and regulations, or as otherwise directed  
18 by: (A) the federal on-scene coordinator who shall be  
19 predesignated by the United States Environmental Protection  
20 Agency or the United States Coast Guard to coordinate and direct  
21 a federal response under subpart D of the National Contingency  
22 Plan or (B) the official designated by the lead agency to coordinate  
23 and direct removal under subpart E of the National Contingency  
24 Plan shall not be liable, notwithstanding any other provision of  
25 law, including section 5 of this chapter, for removal costs or  
26 damages which result from actions taken or omitted to be taken  
27 in the course of providing such care, assistance, or advice, except  
28 with respect to personal injury or wrongful death, or if such person  
29 is grossly negligent or engages in willful misconduct. For the  
30 purposes of this paragraph, the term damages shall mean any  
31 damages, costs, expenses or economic loss of any kind for which  
32 liability may exist under the laws of this state resulting from,  
33 arising out of or related to the discharge or threatened discharge  
34 of oil. As used in the preceding sentence, of the term discharge  
35 shall mean any emission, other than natural seepage, intentional  
36 or unintentional, and including but not limited to spilling, leaking,  
37 pumping, pouring, emitting, emptying or dumping of oil, oil  
38 refuse, oil mixed with wastes, other than dredge spoil, or  
39 petroleum (but not including hazardous substances which are  
40 specifically listed under 42 U.S.C. 9601 (14)(A) through (F) and  
41 which are subject to the provisions of that Act).

1 SECTION 11. Paragraph (a) of section 5 of said chapter 21E,  
2 as so appearing, is hereby amended by inserting, after the word  
3 “release” in line 26, the following words: — , and (iv) to any person  
4 for any liability that another person is relieved of pursuant to the  
5 fourth paragraph of section four.

1 SECTION 12. Paragraph (a) of said section 5 of chapter 21E,  
2 as so appearing, is hereby amended by striking out, in line 24,  
3 the word “and”.

1 SECTION 13. Paragraph (b) of said section 5 of said chapter  
2 21E, as so appearing, is hereby amended by striking out, in line  
3 29, the words “and (iii)” and inserting in place thereof the  
4 following words: — , (iii) and (iv).